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QUESTION OF CYPRUS

SECURITY COUNCIL
Fifty-third year

Letter dated 4 May 1998 from the Permanent Representative of Cyprus
to the United Nations addressed to the Secretary-General

Upon instructions from my Government and further to my letter dated 30 April 1998, I have the honour to draw your attention to further violations of the airspace of the Republic of Cyprus and of the flight information region of Nicosia by military aircraft of the Turkish Air Force.

On 30 April 1998, between 1418 and 1635 hours, four formations, consisting of two F-16, two F-4, two RF-4 and an additional two RF-4 aircraft of the Turkish Air Force, entered the flight information region of Nicosia from a northerly direction, violating the national airspace of the Republic of Cyprus, and flew over the areas of Morphou, Kyrenia and the Cape of Apostle Andreas.

These new violations, which occurred on the eve of renewed efforts to achieve a solution to the Cyprus problem, constitute provocative actions which expose once more the blackmailing attitude of Turkey and are a testament to that country's systematic disregard of the norms of international law.

On behalf of the Government of the Republic of Cyprus, I wish to strongly protest these new violations of the sovereignty and territorial integrity of the Republic of Cyprus, which are in complete disregard of the Charter of the United Nations and the relevant decisions of the Organization on the question of Cyprus, as well as the regulations of the International Civil Aviation Organization.

I should be grateful if you would have the text of the present letter circulated as a document of the fifty-second session of the General Assembly, under agenda item 61, and of the Security Council.

(Signed) Sotirios ZACKHEOS
Ambassador
Permanent Representative



General Assembly

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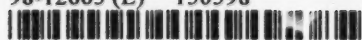
Fifty-second session
Agenda items 130 and 143

Financing of the United Nations Peacekeeping Force in Cyprus

Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Note by the Secretary-General

1. Pursuant to General Assembly resolution 51/235 of 13 June 1997, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the termination benefits paid to the locally employed civilians in the United Nations Peacekeeping Force in Cyprus.
2. The Secretary-General takes note of the report's findings and concurs with its recommendations.



Annex**Report of the Office of Internal Oversight Services on the termination benefits paid to the locally employed civilians in the United Nations Peacekeeping Force in Cyprus***Summary*

In its resolution 51/235 of 13 June 1997, on the financing of the United Nations Peacekeeping Force in Cyprus (UNFICYP), the General Assembly requested the Secretary-General to direct the Office of Internal Oversight Services (OIOS) to evaluate and report to the Assembly on the events and circumstances that led to United Nations responsibility for termination pay to the locally employed civilians in the Force, including all aspects of accountability and responsibility of United Nations staff. The Assembly was referring to an amount of \$5,284,000 in the proposed budget for UNFICYP from 1 July 1997 to 30 June 1998, representing the United Nations share of the one-time cost of termination benefits and redundancy payments for 304 former locally employed civilians in Cyprus.

Payment of the termination benefits became an issue between the United Nations and the United Kingdom of Great Britain and Northern Ireland after November 1994 when the United Kingdom officially notified the United Nations that it had decided, effective the end of June 1995, to cease providing the contractual services for local support staff which had been agreed to as part of the Memorandum of Understanding between the United Nations and the United Kingdom of 11 December 1979. UNFICYP administration was under pressure to maintain the continuity of day-to-day operations and several options that would have allowed it to provide such services were considered by the Department of Peacekeeping Operations in consultation with the Office of Human Resources Management of the Department of Management. The option that was selected by the Office of Human Resources Management in early 1995 was to convert locally employed civilians to the status of locally recruited United Nations General Service staff by instructing the United Kingdom to terminate all contracts for locally employed civilians with the United Kingdom Civilian Establishment and Pay Office. Subsequently, UNFICYP rehired the locally employed civilians based on proven performance at the levels established through a custom-designed classification process. Once the decision to terminate the locally employed civilians was conveyed to the United Kingdom, it began paying termination benefits to them according to the Civilian Establishment and Pay Office's agreements with the them.

Differences emerged over who was responsible for payment of the termination benefits to the locally employed civilians, the United Nations or the United Kingdom. The United Nations took the position that as the issue was generated by the United Kingdom's decision to withdraw from providing those services, the cost should be based on the same cost-sharing formula that was applied to locally employed civilians salaries and other staff costs,

including termination payments to individual locally employed civilians who had been terminated during the life of the Memorandum of Understanding. The United Kingdom's position was that the United Nations was responsible for the totality of the termination payments, as the decision to terminate was made by the United Nations.

The negotiations between the United Nations and the United Kingdom continued into 1997, when the parties agreed to a settlement of the issue, and the cost-sharing formula was the mechanism for the settlement of the dispute.

OIOS did not find any impropriety in the actions of the United Nations staff members. Nevertheless, in its view, important "lessons learned" emerge:

- Firstly, in large measure, the problem was caused by lack of precision in the four-page Memorandum of Understanding (inclusive of the two-page annex). The respective obligations of the two parties for the contractual employees' various benefits and entitlements, including termination benefits, were not defined. This allowed for contradictory interpretations by the parties. Therefore, OIOS recommends to the Department of Management and the Department of Peacekeeping Operations that in the future either the United Nations enter into memorandum of understandings that provide the details of the agreement between the parties or, alternatively, that additional written agreements be prepared within the framework of the terms of the memorandum of understandings that so provide;
- Secondly, as legal and financial issues were apparent at the initial stage of problem definition and consideration of options, it would have been advisable for UNFICYP/Department of Peacekeeping Operations to have obtained assessments of possible legal and financial liabilities to the Organization from the Office of Legal Affairs and from the Office of Programme Planning, Budget and Accounts, respectively. Therefore, OIOS recommends to the Department of Management and the Department of Peacekeeping Operations that in the future programme managers faced with issues that have significant legal and financial implications consider the benefits of early consultation with the Office of Legal Affairs and the Office of Programme Planning, Budget and Accounts. An integrated approach to decision-making is likely to enhance comprehensive determination of financial and legal risks faced by the Organization and to offer a broader range of options to solve problems.

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I. Introduction

1. In its resolution 51/235 of 13 June 1997 on the financing of the United Nations Peacekeeping Force in Cyprus (UNFICYP), the General Assembly requested the Secretary-General to direct the Office of Internal Oversight Services (OIOS) to evaluate and report to the Assembly on the events and circumstances that led to United Nations responsibility for termination pay to the locally employed civilians in the Force, including all aspects of accountability and responsibility of United Nations staff. The Assembly was referring to an amount of \$5,284,000 in the proposed budget for UNFICYP from 1 July 1997 to 30 June 1998, representing the one-time cost of terminal benefits and redundancy payments for 304 former locally employed civilians in Cyprus.

2. In the course of its investigation, OIOS reviewed available relevant documents and conducted interviews with United Nations staff members, in person for those at Headquarters and by telephone with staff in the field.

3. *The comments provided by the concerned departments, the Field Administration and Logistics Division of the Department of Peacekeeping Operations, the Department of Management and the Office of Legal Affairs, to the OIOS draft report have been fully taken into account and are reflected in the following text.*

II. Historical and organizational context

4. When UNFICYP was established in 1964 in accordance with Security Council resolution 186 (1964) of 4 March 1964, the costs of the Peacekeeping Force were met by the Governments providing the military contingents and by voluntary contributions received for that purpose by the United Nations. Under those arrangements, the troop-contributing Governments were responsible for costs such as the troops' regular pay and allowances and normal *matériel* expenses, while the United Nations was responsible for the operational costs for administrative and logistic support (e.g. rations, fuel, vehicles, maintenance of premises, salaries and travel of non-military personnel) and for extraordinary costs incurred by the troop-contributing Governments. The costs incurred by the United Nations were paid from voluntary contributions received for that purpose. Voluntary contributions, however, had consistently fallen short of the required amount. The Secretary-General had repeatedly voiced his concern about the worsening financial

situation confronting UNFICYP and proposed that the Force be put on a sound and secure financial basis by changing its funding to assessed contribution. In its resolution 831 (1993) of 27 May 1993, the Security Council decided that those costs of the Force which were not covered by voluntary contributions should be treated as expenses of the Organization and assessed accordingly, effective 15 June 1993.

5. Under the Memorandum of Understanding between the United Nations and the United Kingdom of Great Britain and Northern Ireland, signed on 11 December 1979, which formalized a long-standing agreement between the United Nations and the United Kingdom, it was agreed that a large part of UNFICYP logistics support would be supplied by the British Forces in Cyprus. The Government of the United Kingdom agreed to "continue to provide for members of the British contingent, at no cost to the United Nations, all the logistic support that it would normally provide if they were serving in field conditions under United Kingdom command" (para. 3 of the agreement) and "to provide to the other elements of UNFICYP, at United Nations expense, unless otherwise indicated, the logistic support listed and defined in the Annex to [the] Memorandum of Understanding" (emphasis added, para. 4 of the agreement). As part of those logistic support arrangements, the United Kingdom Command Secretariat, through its own Civilian Establishment and Pay Office, provided to UNFICYP all of the locally employed civilians, with all costs plus administrative fees charged to UNFICYP.

6. Reimbursement of the cost of the locally employed civilians' salaries and other benefits to the United Kingdom by the United Nations was not described in detail in the Memorandum of Understanding. Subsequently, then, after discussion between the parties it was agreed that salaries would be paid on a cost-sharing basis proportional to the function and work assigned to each post, whether for the British contingent, to be paid by the United Kingdom, or "other elements", to be paid by UNFICYP. The cost-sharing formula was applied to four categories of posts: (a) posts funded 100 per cent by the United Nations; (b) posts funded 70 per cent by the United Kingdom and 30 per cent by the United Nations until 15 June 1993; (c) posts funded 100 per cent by the United Kingdom until 15 June 1993; and (d) posts funded by two or more categories (as a result of a change in functions). Under the contractual arrangements made between the United Kingdom Command Secretariat and the locally employed civilians, the latter were entitled to, in addition to the basic salary, a cost of living allowance, overtime pay and allowances, as well as an annual bonus equal to one month's salary, gratuities and redundancy (or

termination) pay. Those benefits and entitlements were structured differently from those of locally recruited staff in other United Nations peacekeeping missions as they were based on Civilian Establishment and Pay Office regulations, rather than United Nations rules and regulations.

7. At the time of the change in funding, in June 1993, the United Kingdom Command Secretariat had suggested in discussions and correspondence with UNFICYP management that it wished to reduce its involvement in providing logistic services to UNFICYP. However, it was not until October 1994 that the United Kingdom's substantive decision to cease providing contractual logistic services to UNFICYP was communicated to the Force. In the course of a meeting with the Chief Administrative Officer of UNFICYP, representatives of the United Kingdom announced their Government's intention to stop providing the administration and payroll functions for locally employed civilians to UNFICYP by the end of March 1995. By a letter dated 21 November 1994, the Mission of the United Kingdom to the United Nations notified the United Nations that the United Kingdom intended to cease providing the above-mentioned services as at 30 June 1995. That date, which coincided with the end of the UNFICYP six-month mandate period, in effect gave the United Nations seven months' notice to develop transitional arrangements for the final handover of responsibilities. The reason provided by the United Kingdom for ceasing provision of the service was that it was neither cost-effective for the United Nations, which was being charged 3 per cent and 4 per cent respectively for administrative and debtors' enhancement fees, nor appropriate for the United Kingdom to continue to provide this service 18 months after UNFICYP had become a standard United Nations peacekeeping mission.

III. Sequence of actions that led to the payment of termination benefits

8. During the course of the transitional seven months, UNFICYP and the Field Administration and Logistics Division were confronted with the problem of how to maintain continuity of general support services, which, effective 15 June 1993, were funded from assessed contributions. From the documentation on record, including exchanges of correspondence between UNFICYP and the United Kingdom Command Secretariat and between UNFICYP and Headquarters, it is clear that UNFICYP and the Field Administration and Logistics Division were faced with the problem of maintaining the continuity of its

mandated mission in Cyprus and could not do so without logistical support personnel. For the mission, the withdrawal of the Civilian Establishment and Pay Office foretold a "personnel requirement" problem but, in that context, the issue of termination payments was not immediately perceived as predominant.

9. Following the change in UNFICYP funding, the Chief Administrative Officer of the Force attempted to negotiate with the Command Secretariat with regard to their organizations' respective obligations for the entitlements of locally employed civilians on board by 15 June 1993. OIOS noted that this initiative by the Chief Administrative Officer was consistent with the terms of his job description, authorizing the incumbent of the post to "negotiate with the United Kingdom Command Secretary for logistic support of 7 millions per year". In a memorandum dated 30 June 1993 addressed to the Command Secretary, the Chief Administrative Officer stated:

"When locally employed civilians separate from service, the United Nations will accept responsibility for entitlements accrued since 16 June 1993. In so far as entitlements accrued up to and including 15 June 1993 are concerned, the United Nations will accept its portion of the cost of gratuities pro-rated according to whether the individual was 100 per cent United Nations-funded or 70 per cent United Kingdom/30 per cent United Nations cost-shared. We would look to the United Kingdom to accept pro-rated costs in accordance with the same criteria (100 per cent United Kingdom funded or 70 per cent United Kingdom/30 per cent United Nations cost-shared)."

It appears that the above position was not accepted by the Command Secretariat, which replied, "effective 16 June 1993, ... all locally employed civilians at UNFICYP are employed by the United Nations and the United Nations must take full and financial responsibility for any decision after that time to make these staff redundant" (Command Secretary's memorandum of 3 August 1993).

10. In October and November 1994, there was an exchange of correspondence between the UNFICYP Chief Finance Officer and the Deputy Command Secretary. The United Kingdom summarized its position as follows:

"Prior to 16 June 1993, the terminal benefits for locally employed civilians who left employment were apportioned according to the cost-sharing arrangement in place at the time. Similarly, when reassessments of terminal benefits are paid to staff who left before 16 June 1993, the costs are shared between the United Nations and the United Kingdom. However, with

effect from 16 June 1993, all terminal benefit costs for United Nations locally employed civilians fall to the United Nations and all terminal benefit costs for United Kingdom locally employed civilians fall to the United Kingdom. Exceptionally, the Command Secretary has accepted that where United Nations locally employed civilians are made redundant as a result of unilateral United Kingdom action, the United Kingdom will meet the cost of redundancy payments."

In January 1995, the Chief Administrative Officer stated in a memorandum to the Command Secretary:

"It was not agreed that, effective 16 June 1993, UNFICYP would assume responsibility for meeting 100 per cent of the cost of entitlements and termination benefits which had accrued prior to 16 June 1993 by cost-shared locally employed civilians who would in due course separate from service as a result of regular retirement/resignation. It is expected that these costs will be pro-rated between the United Kingdom and the United Nations in the same proportion as salaries were previously cost-shared."

11. Shortly after being informed of the United Kingdom's decision to withdraw its contractual services, the Chief Administrative Officer of UNFICYP referred the matter to the Acting Director of the Field Administration and Logistics Division for advice in a confidential memorandum dated 21 November 1994. In that memorandum, the Chief Administrative Officer outlined the following three options for obtaining the services currently provided by the locally employed civilians: (a) to take over the contract from the Civilian Establishment and Pay Office; (b) to introduce a new contractual arrangement for provision of local staff; and (c) convert the locally employed civilians to locally recruited General Service staff. The Chief Administrative Officer also assessed the above-mentioned options in terms of their feasibility and practicality. With respect to the selection of the first option, the Chief Administrative Officer noted that it would be the most cost-effective arrangement. However, she identified two major obstacles to the option: (a) incompatibility between the Civilian Employment Regulations affecting the salaries, benefits and work conditions of the locally employed civilians under their Civilian Establishment and Pay Office contracts and the salaries, benefits and work conditions under United Nations rules and regulations; and (b) inability to enter into negotiations with the local trade unions under United Nations Staff Rules and Regulations.

12. The Chief Administrative Officer considered that the second option was similarly not feasible, primarily because

it was unlikely that UNFICYP could find one agency that would be willing to act as a labour contractor for so many occupational groups.

13. With respect to the option involving securing a private labour contractor, the Chief Administrative Officer said that she was familiar with the local labour market and had never heard of an entrepreneurial agency in Cyprus that would provide such a service. She acknowledged, however, that she had not explored the matter further, by requesting bids, for example. When interviewed about the same issue, the current Chief Administrative Officer said that it would have been highly unlikely for UNFICYP to obtain a labour contractor who would have agreed to provide contractual labour for the various occupational groups needed for logistic support. However, even though the decision to contract out those functions could have achieved savings in labour costs – as the local salaries were considerably lower than the salaries paid by the Command Secretariat to locally employed civilians – she further stated that if the objective of contracting those support services was to assign the Civilian Establishment and Pay Office contract to a private labour contractor to avoid termination/redundancy procedures, that option would have been neither feasible nor cost-effective; no labour contractor would have agreed to pay workers higher salaries than those offered by local employers. Furthermore, it would have constituted a major departure from the human resources policies of the Organization.

14. Having assessed the first two options to be impractical, the Chief Administrative Officer, in her memorandum of 21 November 1994, recommended the third option, that is, conversion of locally employed civilians to locally recruited United Nations General Service staff. In support of that option, she noted that there was a good pool of qualified personnel available in the local market, including many of the locally employed civilians then on board.

15. The issue of termination benefits was raised by the Chief Administrative Officer in the above-mentioned memorandum in the following contexts: (a) to alert the Field Administration and Logistics Division that the United Nations might have to share the costs of termination benefits, applying the same ratio as had been used for determining the share of costs between the United Nations and the United Kingdom for the salaries of locally employed civilians during the period of funding by voluntary contributions, to 15 June 1993; (b) to suggest that the United Nations might wish to conclude an agreement with the United Kingdom with regard to cost-sharing termination benefits; and (c) in connection with a proposal to hold accrued entitlements of locally employed civilians in escrow. The suggestion to hold accrued entitlements in escrow was

based on the assumption that there would be a conversion of contractual status from locally employed civilian to United Nations local recruitment, which, in turn, would preempt the need to apply redundancy/termination procedures. However, that option was deemed impractical as it would cause UNFICYP to have two different categories of entitlements to administer – those under United Nations personnel rules and those under a variation of Civilian Establishment and Pay Office rules. In addition, the value of accrued entitlements at the time of separation would have been even more costly to the Organization.

16. In December 1994, the Acting Director of the Field Administration and Logistics Division referred the three possible options to the Office of Human Resources Management, requesting its views. The Chief of the Compensation and Classification Service of the Office, in a memorandum dated 25 January 1995 to the Director of the Staff Administration and Training Division, provided an assessment of those three possible approaches. Option 1, taking over the existing contract from the Civilian Establishment and Pay Office by introducing new contractual agency arrangements for provision of local staff, was not recommended, given the uncertainties surrounding contractual personnel as a result of concerns expressed by the General Assembly during its forty-ninth session, which reflected the position taken by the Advisory Committee on Administrative and Budgetary Questions in its report (A/49/664, para. 72).

17. In that memorandum, the Chief of the Compensation and Classification Service had considered also the above-mentioned suggestion by the Chief Administrative Officer of UNFICYP to hold accrued entitlements in escrow for those staff members who were willing to serve in UNFICYP and who had a proven record of good performance. In that connection, the Chief of the Compensation and Classification Service concluded that "this option may alleviate a financial burden to UNFICYP under the termination formula; however, [it] could not confer any legal grounds for possible future claims of current locally employed civilians against the United Nations Joint Pension Fund". Referring to that statement, he was asked in the course of an interview with OIOS why the Office of Human Resources Management had not recommended that the option of deferring the payments to a future date or putting the termination payments in escrow for those locally employed civilians who were given United Nations contracts be fully explored. His response was that his advice to the Field Administration and Logistics Division in January 1995 had been based on his past experience that the best approach in establishing new personnel arrangements was to achieve

a "clean break" with past contractual arrangements; further, the best way to achieve that objective was to pay off all obligations arising from the previous Civilian Establishment and Pay Office contractual arrangements. He noted that to carry forward obligations arising under the contract with the Civilian Establishment and Pay Office might have introduced a future liability for the Organization for the entire cost of the termination benefits and would have made the administration of those contracts more complicated. The Chief Administrative Officer did not pursue the option of placing the entitlements in escrow because she had decided to follow the advice provided by the Office of Human Resources Management.

18. Thus, two alternatives of the third option were considered: (a) automatic conversion of all locally employed civilians into the United Nations General Service and related categories on the basis of their current salaries; and (b) termination of all locally employed civilians under the Civilian Establishment and Pay Office contract and subsequent rehiring based on proven performance at levels established through a classification process. The first alternative was not deemed acceptable as it would have entailed exceptions to the Staff Rules and would have created confusion and inconsistency in determining the appropriate levels of remuneration. The Chief of the Compensation and Classification Service concluded in his memorandum as follows:

"Accordingly, I would recommend starting with a *tabula rasa*, i.e., terminate all locally employed civilians in accordance with the current contract on the basis of the 30/70 cost-sharing formula agreed by the United Nations and United Kingdom; pay the attendant termination benefits and allowances; and hire the most competent and efficient staff as locally recruited staff in the General Service and other categories."

He concluded that "a 'clean break' from past policies and practices, though difficult, is preferable". This advice was communicated to the Acting Director of the Field Administration and Logistics Division.

19. Following this assessment, the approach selected by the Office of Human Resources Management was implemented by the Department of Peacekeeping Operations. This approach included the following steps: (a) terminating all locally employed civilians on the basis of the 70/30 per cent cost-sharing formula agreed by the United Nations and United Kingdom; (b) paying the attendant termination benefits and allowances; and (c) rehiring the most competent and efficient staff as locally recruited staff in the General Service and other categories.

20. Based on the instructions received from United Nations Headquarters, by memorandum dated 8 May 1995, the Chief Administrative Officer of UNFICYP instructed the Command Secretary to terminate all locally employed civilian contracts. She stated that she had distributed to all locally employed civilians a memorandum informing them that all locally employed civilian contracts would be terminated on 30 June 1995; all attendant termination benefits and allowances applicable under the Civilian Establishment and Pay Office contract provisions would become payable to each locally employed civilian on board at UNFICYP at that date; and completely new United Nations contracts would be issued effective 1 July 1995. In the same memorandum, the Chief Administrative Officer also stated that there would be no "carry-over or transfer of any entitlements or benefits from one system to the other". By a memorandum dated 22 May 1995 to the Deputy Command Secretary, the Chief Administrative Officer further elaborated on the issue of termination benefits, confirming that "all the locally employed civilians on board on the date that the locally employed civilian service is withdrawn will be entitled to receive all appropriate termination benefits, including redundancy pay where relevant"; she also stated that payment "will not be dependent upon whether or not the individual concerned is subsequently given a United Nations contract" as it was considered to be an entitlement that arose on the termination of the Civilian Establishment and Pay Office agreements with the locally employed civilians. The Deputy Command Secretary responded by a memorandum dated 26 May 1995 that he considered the memorandum of 22 May 1995 by the Chief Administrative Officer of UNFICYP to give him "the financial authority to make redundancy payments on behalf of the United Nations to all United Nations locally employed civilians 'on board' on 30 June 1995". He advised that the arrangements for billing the United Nations for those payments would be handled by the Foreign and Commonwealth Office in London.

21. Based on the above exchange of correspondence, the United Kingdom made payments to 164 locally employed civilians in July 1995. Subsequently, in October 1995, the United Kingdom informed the United Nations that it would stop payments of termination benefits unless an agreement was reached with the United Nations for reimbursement of the totality of the termination benefits. The United Kingdom's legal position was based on its contention that the decision to terminate the locally employed civilians had been made by the United Nations. The management of UNFICYP and the Field Administration and Logistics Division continuously objected to that argument,

maintaining that it was the United Kingdom's unilateral decision to discontinue providing the service that had created the problem.

22. The parties had reached a legal impasse when the Field Administration and Logistics Division referred the issue of termination benefits to the General Legal Division of the Office of Legal Affairs in October 1995. The Field Administration and Logistics Division requested advice from the Office of Legal Affairs on the issue of whether the cost of the termination benefits should be shared between the United Nations and the United Kingdom according to the same cost-sharing formula that had been used to pay their salaries (see para. 6 above). Having reviewed past cases of individual terminations of locally employed civilians, which showed that payments had been allocated between the United Nations and the United Kingdom based on the same apportionment as the salaries and other benefits had been, the Office of Legal Affairs endorsed the principle of cost-sharing of termination payments as reasonable and fair.

23. Under that principle, the United Nations and the United Kingdom would cost-share terminations using the same formula adopted by the parties to cost-share salary payments to locally employed civilians, following the suggestion made by the Chief Administrative Officer of UNFICYP in her memorandum of 21 November 1994. Thus, the United Nations would pay 100 per cent of the cost of termination benefits to those locally employed civilians who were funded 100 per cent by the United Nations and 30 per cent of the cost of those whose salaries were cost-shared between the United Nations and the United Kingdom (on the basis of 70/30 per cent). A review of the documentation indicates that during late 1995 the Advisory Committee on Administrative and Budgetary Questions had been informed that in connection with the conversion of the locally employed civilians to United Nations local staff, legal advice from the Office of Legal Affairs had been sought regarding the question of liability for terminal benefits for the locally employed civilians and the issue had not yet been resolved (A/50/802, para. 40).

24. The Office of Programme Planning, Budget and Accounts had by that time become more fully involved in the issue of termination benefits in late 1995 in connection with the preparation of budget documents related to UNFICYP, including the establishment of new posts for local staff in UNFICYP. From that point on, the Office also assisted in the negotiations with the United Kingdom. The Secretary-General's report on the financing of UNFICYP for the period from July 1997 to June 1998 included an estimate of the United Nations share of the cost of those benefits – \$5,284,000 – which was based on the principle

suggested by UNFICYP, recommended by the Office of Human Resources Management and endorsed by the Office of Legal Affairs in January 1996 (see A/51/755/Add.1). The report also included background information on the request and alluded to the negotiations between the United Nations and the United Kingdom.

25. The Memorandum of Understanding provided no guidance and this legal "logjam" continued into 1997, with neither party conceding. The negotiations with the United Kingdom focused on the legal issue of who was the "real" employer of locally employed civilians; in the United Kingdom's view, UNFICYP was. The United Nations maintained that there was no employment relationship between the United Nations and the locally employed civilians. Finally, in March 1997, the United Kingdom informed the United Nations that while the legal issue of liability remained "inconclusive", the United Kingdom was prepared:

"... in the interests of resolving this issue in an expeditious fashion, while addressing the attendant political problems in Cyprus, to agree to your proposal that the costs of making all terminal benefits and redundancy payments due to the locally employed civilians should be divided between the United Nations and the United Kingdom on a pro-rata basis in accordance with the cost-share formula previously used to apportion the salaries of the individuals concerned."

26. A review of the documents indicates that the Advisory Committee on Administrative and Budgetary Questions was subsequently informed that, following review and advice by the Office of Legal Affairs on the issue of liability for termination benefits to locally employed civilians, representatives of the United Kingdom and the United Nations had agreed that benefits due to locally employed civilians should be allocated on the same basis as the arrangements/formulas for meeting the costs of the four categories of locally employed staff (see para. 6 above and the report of the Advisory Committee on the financing of UNFICYP (A/51/851 and Corr.1, para. 36)). Taking note of the financial obligation arising from the agreement between the United Kingdom and the United Nations, the Advisory Committee stated in its report that the General Assembly would have to decide how the United Nations share should be financed (para. 37). Subsequently, in its resolution 51/235, the Assembly decided that the total United Nations share of \$5,284,000 would be funded by assessed (\$1,131,000) and voluntary (\$4,153,000) contributions. As noted above, the Assembly also requested an evaluation of the events and circumstances that led to the United Nations

having responsibility for termination pay to the locally employed civilians in UNFICYP.

IV. Evaluation

27. The unilateral decision of the United Kingdom to hire local staff under Civilian Establishment and Pay Office regulations, with all the attendant benefits, and to withdraw from providing locally employed civilians left both the Office of Human Resources Management and the Field Administration and Logistics Division with a series of legal and financial issues not of their making. The issue of payment of termination benefits was predominantly a labour contract legal issue. But for the United Nations, which was mandated to continue its mission in Cyprus, the issue was significantly seen as a human resources one owing to the time constraint and operational requirements. The question of legal liability was considered by the Chief Administrative Officer of UNFICYP in her November 1994 memorandum – but it was only later that the advice of the Office of Legal Affairs was sought, and then only on the narrow issue of the appropriateness of the cost-sharing payments. The financial implication of the legal liability for the United Nations insofar as termination benefits were concerned had not been perceived as a looming legal issue when the United Kingdom withdrew from providing civil labour for UNFICYP, which had been only loosely agreed in the 1979 Memorandum of Understanding. Although it was acknowledged by the Chief Administrative Officer of UNFICYP that taking over the United Kingdom's contractual arrangements was the most cost-effective solution, her concern that it would create personnel problems and violations of Staff Rules was confirmed by the Office of Human Resources Management in its assessments.

28. Experienced United Nations personnel grappled with the issue of termination payments for nearly three years. The decision taken was neither arbitrary nor wasteful in that serious and detailed consideration was given to a range of options. That consideration led to the only viable option considering the human resource policies of the Organization. While the assumption of the Civilian Establishment and Pay Office arrangements – by all accounts – would have been less costly than the option selected, as it would have avoided the need to pay at one time to all locally employed civilians the accrued termination pay, it would have caused serious personnel, legal and financial implications to the United Nations. Specifically, exceptions to the Staff Rules for recruitment, retention, seniority, determination of remuneration and so on would have been required. OIOS

considers that once the Organization decided to undertake such exceptions on such a large scale, the United Nations would have opened itself to the establishment of a precedent for all future mission recruiting, including negotiations with local trade unions and appeals of decisions affecting those personnel issues based on different, even contrary, determinations on the same issues, by the United Kingdom. Therefore, the decision taken by the Organization to harmonize the locally employed civilians employment status with existing United Nations rules is seen as appropriate. Lack of harmonization in one mission may well have also caused the United Nations to renegotiate in other missions on the basis of national labour laws with the attendant problems of the United Nations having to deal with local union disputes, if and when they arose, which in turn would undermine the privileges and immunities the Organization is entitled to.

29. Documentation made available to OIOS makes it very clear that the United Kingdom had taken a unilateral decision and would not agree, under any conditions, to continue to provide the service. Once that decision was taken, numerous issues, including several not previously resolved except on an ad hoc basis between UNFICYP administration and the United Kingdom Command Secretariat, had to be addressed by the Organization. During continuing discussions between UNFICYP and the Command Secretariat, some of those issues were resolved. The issue of termination payments, because of the associated costs, could not be resolved in the field. Faced with the view, on both sides, that termination benefits had to be paid to the locally employed civilians, once the Civilian Establishment and Pay Office contracts were terminated, neither wanted to assume the financial responsibilities.

30. Critically, the Memorandum of Understanding of 1979 did not provide details of the allocation of expenses. Instead, in paragraph 4, it simply provides: "The United Kingdom will provide to the other elements of UNFICYP, *at the United Nations expense, unless otherwise indicated*, the logistic support listed and defined in the annex to this Memorandum of Understanding" (emphasis added). The annex provides in paragraph 11 for civil labour: "Administration of locally engaged civil labour on behalf of UNFICYP within the total numbers, and in accordance with the terms agreed between HQ UNFICYP and the UK authorities". This lack of written agreement as to exactly what was to be provided to the locally employed civilians for which the United Kingdom or the United Nations was to be responsible led directly to the conflict over termination payments in both the individual cases of termination and the locally employed civilians status change occasioned by the

withdrawal of the United Kingdom. Without a written agreement as to the terms of employment, including for payment of salaries and termination, both parties could, and did, identify significant areas of disagreement. Given those circumstances, the United Nations and the United Kingdom ultimately each decided to resolve the question by accommodating to the cost-sharing formula previously employed.

31. OIOS did not find any impropriety in the actions of the United Nations staff members. The disagreement between the United Kingdom and the United Nations might have been mitigated if the basic document, which incorporated the agreement between the parties, had been drafted with a view to minimizing the risks to both parties by spelling out their respective responsibilities and liabilities for the entitlement of the support staff. Nevertheless, in the view of OIOS, important lessons learned emerge: Firstly, in large measure, the problem was caused by the lack of precision in the four-page Memorandum of Understanding (inclusive of the two-page annex). The respective obligations of the two parties for the contractual employees' various benefits and entitlements, including termination benefits, were not defined. This allowed for contradictory interpretations by the parties. Secondly, as legal and financial issues were apparent at the initial stage of problem definition and consideration of options, it would have been advisable for the Department of Peacekeeping Operations to have obtained assessments of possible legal and financial liabilities to the Organization from the Office of Legal Affairs and the Office of Programme Planning, Budget and Accounts, respectively.

V. Conclusions and recommendations

32. Important lessons learned emerge from these events. The issue of payment of termination benefits was predominantly a legal labour contract issue. But for the United Nations, which was mandated to continue its mission in Cyprus, the issue was significantly seen as a human resource one, owing to the time constraint and operational requirements. The financial implication of the legal liability for the United Nations insofar as termination benefits were concerned had not been perceived as a looming legal issue when the United Kingdom withdrew from providing civil labour for UNFICYP, which had been only loosely agreed in the 1979 Memorandum of Understanding. While the assumption of the Civilian Establishment and Pay Office arrangements – by all accounts – would have been less costly than the option selected, as it would have avoided the need to pay at one time to all locally employed civilians the

accrued termination pay, it would have caused serious personnel, legal and financial implications to the United Nations. In large measure, the problem was caused by the lack of precision in the four-page Memorandum of Understanding. The respective obligations of the two parties for the contractual employees' various benefits and entitlements, including termination benefits, were not defined. This allowed for contradictory interpretations by the parties. As legal and financial issues were apparent at the initial stage of problem definition and consideration of options, it would have been advisable for the Department of Peacekeeping Operations to have obtained assessments of possible legal and financial liabilities to the Organization from the Office of Legal Affairs and the Office of Programme Planning, Budget and Accounts, respectively.

33. In the light of the above conclusions, OIOS makes the following recommendations:

- *Recommendation 1.* For matters such as these that present significant legal issues and financial liability to the Organization, OIOS recommends to the Department of Management and the Department of Peacekeeping Operations that programme managers consult the Office of Legal Affairs and the Office of Programme Planning, Budget and Accounts at the initial stages to assess the risks to the Organization (Rec. No. IV97/107/01);
- *Recommendation 2.* OIOS recommends to the Department of Management and the Department of Peacekeeping Operations that in the future either the United Nations enter into Memorandums of Understanding that provide the details of the agreement between the parties or, alternatively, that additional written agreements be prepared within the framework of the terms of the Memorandums of Understanding that so provide (Rec. No. IV97/107/02).

(Signed) Karl Th. Paschke
Under-Secretary-General
for Internal Oversight Services



General Assembly

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Agenda items 114 and 143

Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Note by the Secretary-General

1. Pursuant to General Assembly resolutions 48/218 B of 29 July 1994 and 51/231 of 13 June 1997, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the review of the procurement of Lysol brand disinfectant by the Office of the United Nations High Commissioner for Refugees.
2. The Secretary-General takes note of its findings.



Annex**Report of the Office of Internal Oversight Services on the review of the procurement of Lysol by the Office of the United Nations High Commissioner for Refugees***Summary***A. Introduction**

As requested by the General Assembly in its resolution 51/231 of 13 June 1997, the Office of Internal Oversight Services (OIOS) has reviewed the procurement of Lysol brand disinfectant in 1993 by the Office of the United Nations High Commissioner for Refugees (UNHCR) for its programmes in the Federal Republic of Yugoslavia, and eastern Bosnia. The case had been reported in the report of the Board of Auditors for the year ending 31 December 1995. Because the Government would not grant import clearance on the importation and distribution of Lysol, UNHCR was obliged to re-export over 90 per cent of the quantities procured in 1993. The resulting losses were originally estimated at \$3.04 million, and were attributed to inaccurate needs assessment and deficient procurement planning.

The Lysol procurement was made in response to needs identified by the World Health Organization and other parties concerned with refugee and humanitarian assistance in the former Yugoslavia. The shortage of disinfectants resulted from the lack of petroleum-based commodities in the country, as the international sanctions imposed by the Security Council barred the importation of such products. The initial needs assessment of approximately 2.6 million litres made in March 1993 was subsequently reduced to 1.57 million litres in view of the funding prospects for the whole of the former Yugoslavia.

The OIOS audit considered information from available records and interviews with UNHCR personnel as well as relevant information on Lysol and similar products.

B. Results in brief

The review determined that the losses totalled approximately \$2.1 million and that the \$3.04 million of losses originally estimated by UNHCR did not take into account the quantities of Lysol actually utilized in the Federal Republic of Yugoslavia and re-exported for use in other UNHCR programmes. While a loss of this magnitude must still be considered very high by any standard, OIOS looked into the question of accountability and found no proof that UNHCR staff had acted negligently, either during the procurement process or in its aftermath when solutions were being sought to minimize the potential loss.

After reviewing the original needs assessment, which identified requirements of approximately 2.6 million litres, against the subsequent procurement of two consignments totalling 1.57 million litres, OIOS concluded that UNHCR was faced with a situation that could not be anticipated and that was outside of its control. OIOS found no evidence to indicate that Lysol disinfectant is (or was) a banned product in Yugoslavia or in other countries. Due to its corrosive and toxic ingredients, it has to be marked and treated as such, which was the case. Nevertheless, UNHCR was not able to persuade the authorities in Belgrade to grant import clearance for the importation and distribution of Lysol and, therefore, was forced to re-export most of the quantities procured.

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I. Introduction

1. The present report has been prepared in response to General Assembly resolution 51/231 of 13 June 1997 on procurement reform in the Organization. Deficiencies in planning for procurement in 1993 of Lysol brand disinfectant for the programme of the Office of the United Nations High Commissioner for Refugees (UNHCR) in the former Yugoslavia were reported in the report of the Board of Auditors for the year ending 31 December 1995.^a The Office of Internal Oversight Services (OIOS) reviewed the information available on the circumstances and events leading to the procurement of 1.575 million litres of Lysol at a cost of \$2.31 million and the partial non-distribution and subsequent re-export of about 90 per cent of the disinfectant from Belgrade. Comments received from UNHCR in April 1998 were taken into account in preparing the present report and are shown in the text in italics.

2. Although extensive documentation on this matter is currently available at UNHCR, it was not until mid-1994, when expectations were diminishing that the Lysol consignments could be distributed to beneficiaries in the former Yugoslavia, that notes for the file were prepared to document meetings and discussions on the problem. Therefore, little documentation is available on the events from December 1993 to mid-1994 when the matter was still considered an active procurement concern. Thereafter, however, the intensive efforts to solve the problem were documented.

3. An OIOS audit of the UNHCR programme in the former Yugoslavia was undertaken in June 1994. However, the Lysol matter was not included in the audit work plan since at the time it was still expected that distribution to beneficiaries would take place, and the auditors had no specific concerns about the procurement. Lysol was considered as just one of many non-food items provided by UNHCR and distributed in the Former Yugoslavia at that time.

II. Reporting by the Board of Auditors

4. The Board of Auditors first raised the issue of the Lysol procurement in an audit observation dated 11 November 1995, in which it requested additional explanations and clarifications on its purchase. No recommendations were made at that stage. In a subsequent management letter dated 13 February 1996 on the interim audit of UNHCR for the year ending 31 December 1995, the Board of Auditors suggested "that UNHCR management

should examine the circumstances which led to the above procurement, to fix responsibility for the avoidable losses suffered by the Organization. The total financial loss involved in the transaction should also be worked out after verifying the cost of redeployment of the balance stock of Lysol".

5. In April 1996, three additional audit observations were issued on the procurement of Lysol, mainly to obtain more information and confirmation of certain points. One of the observations, however, offered two recommendations: that existing stock levels be verified before stock is reordered, and that special attention be paid to handling chemicals. The OIOS review confirmed that UNHCR made an effort to supply the appropriate information and answer the queries.

6. In its report for the year ending 31 December 1995, the Board of Auditors stated that "UNHCR suffered a loss of about \$3.04 million in procurement, redeployment and resale of Lysol, a disinfectant, because of the refusal of the host country, retroactively, to allow the import".^b The amount of the reported loss was based upon an estimate provided by UNHCR in February 1996. The Board recommended that UNHCR "improve its procedures for needs assessment and undertake more detailed planning and analysis, in concert with all user-agencies, before procurement of bulk commodities".^c

III. Initial needs assessment

7. As a result of the international sanctions imposed by the Security Council on the Federal Republic of Yugoslavia in 1992, there was a shortage of petroleum-based products in the country. This was found to be the main reason for the lack of disinfectants in 1993. This shortage was brought to the attention of UNHCR by the World Health Organization (WHO), and it also appeared on the Yugoslav Red Cross list of needed items.

8. The WHO Area Office in Belgrade had reported for the period from November 1992 to April 1993 that water purification chemicals were in short supply as a result of the lack of fuel and related products. The problem was compounded by the fact that garbage collection had stopped in some towns and that many hospital laundries had only cold water – even infectious disease departments were using only water for cleaning. Therefore, realizing the urgency of action required to address the shortage of disinfectants, the need was reported in the United Nations revised consolidated inter-agency appeal for former Yugoslavia,

issued jointly by the Department of Humanitarian Affairs and UNHCR on 11 March 1993.

9. In preparation for project budget estimates and procurement plans, the quantities required were initially calculated at 2.6 million litres based on the expected need for disinfectants for a nine-month period. In addition to the needs of hospitals and clinics, other beneficiaries requiring the disinfectant were identified, including some 560,000 refugees and displaced persons in Serbia, 80,000 in Montenegro and about 520,000 in eastern Bosnia, who for logistical reasons depended on supplies shipped through Belgrade. It should be noted that many refugees and displaced persons in the Federal Republic of Yugoslavia lived in "collective centres" (sports halls and various municipal and government buildings), which offered only basic or insufficient sanitary and cooking facilities. Further, the situation and health conditions in Bosnia at that time also called for the supply of disinfectants.

10. As WHO and other United Nations agencies did not have the financial resources to cover the need for disinfectants, UNHCR, as the lead agency for humanitarian assistance, assumed the responsibility to procure and deliver the disinfectants to Belgrade. As discussed below, quantities under the first purchase order were reduced from the 2.6 million litres requested originally to 1.015 million litres because of funding constraints. The second purchase order, for 0.56 million litres, was funded through a different contribution advice form.

IV. Procurement

11. Upon the appeal to donors to support the programme in the former Yugoslavia, the European Community's Humanitarian Office (ECHO) made a commitment to fund the purchase of disinfectants along with many other relief items under two funding arrangements totalling \$37.7 million. It should be noted that normally, purchases funded by ECHO were subject to its own verification of needs. Therefore, it was necessary for UNHCR to keep the ECHO office in Belgrade informed of all decisions regarding the procurement and distribution of Lysol. Also, procurement funded by ECHO is normally "time-driven", as the disbursement of funds is subject to tight time limits. It was stipulated that the first purchase should be made before 30 September 1993 and the second before 31 December 1993. Through competitive bidding, two suppliers were selected to supply Lysol. Further details on the purchasing events are as follows:

(a) Purchase order No. 9085 dated 13 July 1993, for 1,015,000 litres at \$1,505,558; delivery period, 13 August to 25 October 1993;

(b) Purchase order No. 9613 dated 20 October 1993, for 560,000 litres at \$788,918; delivery period, 22 November 1993 to 15 January 1994.

12. The OIOS review established that during the purchase authorization stage, the UNHCR Belgrade office, through the Headquarters support office for the former Yugoslavia, presented the identified needs for disinfectants to the Procurement Section. The UNHCR sanitary engineer was then contacted to identify the most appropriate product. In accordance with his suggestion, and in line with the UNHCR technical manual on the use of disinfectants in refugee situations, Lysol was identified as the most appropriate product. Although Lysol was selected and indicated in the quotation requests as the product required, suppliers who might have offered different products were asked to provide specifications and details on composition, main ingredients and certificates of analysis, and to indicate whether the alternative product was sold on the European or American market. However, the majority of suppliers quoted Lysol, and only a few alternative products were offered, mostly at considerably higher prices.

13. The Report of the Board of Auditors noted that "no evaluation of the stock-in-hand of the earlier procurement was made before placing orders for the second supply, in spite of the fact that the earlier supply was incomplete".^d However, it should be remembered that the procurement, in two separate purchases, was dictated by the availability of funds, and that the funds available from ECHO had to be used by 31 December 1993. While it is true that UNHCR did not reassess its needs before placing the second purchase order, it could not be determined at the time of the review whether the relatively slow distribution of the first delivery would have resulted in a substantial reduction in the needs as originally established.

14. Further, information on the distribution of Lysol indicates that approximately 375,000 litres had been released from UNHCR warehouses before the Government failed to issue further import clearance in early December 1993. The second purchase order was placed on 20 October 1993, and up to that date the procurement could have been withdrawn. However, even towards the end of October 1993 there were no signs of potential problems regarding the distribution of Lysol in the former Yugoslavia.

15. *UNHCR management stated that the orders were placed on the basis of need; delays in delivery from the supplier to UNHCR Belgrade warehouses or delays in*

deliveries to the beneficiaries in the Federal Republic of Yugoslavia and eastern Bosnia would not have caused a change in the second purchase order.

V. Technical information

16. Lysol is a product made by blending 50 per cent cresol and 50 per cent liquid soap. It is a well-established product that first appeared in the British pharmacopoeia (under cresol) in 1914; the 1989 edition shows that it was still being used in Yugoslavia. It is considered to be a very effective full-spectrum disinfectant, which is widely used in hospitals, medical clinics and food preparation facilities as well as for general household requirements. However, since cresol has corrosive effects, irritates skin and eyes upon contact and has toxic effects if swallowed, alternative products have been available on the market in recent times.

17. As Lysol is a highly concentrated product, it has to be diluted with water prior to use. Detailed instructions were provided on the one-litre plastic containers to that effect. OIOS noted, however, that the instructions on each container were in English, and not in the local language. In the view of OIOS, instructions in the local language would have helped the local population to understand fully the instructions on its dilution and use, and could have facilitated the acceptance of the product by the Yugoslav authorities, in particular with regard to those quantities intended for use by individual households.

18. Lysol appears to be a trade mark in the United States of America, with various blends of disinfectants and detergents offered under the brand. Therefore, the product was not found in United Nations documents or data banks, such as the United Nations Environment Programme International Register of Potentially Toxic Chemicals or the European Agreement concerning the International Carriage of Dangerous Goods by Road and protocol of signature of the Economic Commission for Europe.

19. Also, Lysol could not readily be found in shops in Switzerland or France, whereas cresol, the base substance of Lysol, was readily available in France. Cresol is a concentrated product, and its instructions for use recommended that it be diluted with 50 parts water for cleaning garbage containers and the like.

VI. Delivery, distribution and storage

20. The two orders of Lysol were transported by truck from the United Kingdom of Great Britain and Northern Ireland to Belgrade between August and October 1993 and between November 1993 and January 1994, respectively. Before the transport took place, the Security Council Sanctions Committee, on 26 July and 28 October 1993, granted the approvals necessary for the shipments. The review of shipping documents and inspection reports indicated that the general procedures applied should have ensured that the transit and import formalities would not become an obstacle for the consignment. It was also evident that standard United Nations transport requirements complied with the European Agreement mentioned in paragraph 18 above, to which Yugoslavia was a signatory. Packing and marking of the goods and trucks also complied with general European standards for such chemicals, as listed in the International Register of Potentially Toxic Chemicals.

21. All deliveries of relief items to Belgrade were received and cleared by customs through the UNHCR contracted agent, Jugosped Corporation, an entity of the Government of the Federal Republic of Yugoslavia, which was also responsible for providing warehousing services. The contract between UNHCR and Jugosped stipulated that UNHCR would be charged \$35 per truck for customs clearance and agricultural inspection of trucks from other countries. This indicated that transport documents were received and some inspections were actually performed. In case of non-compliance, Jugosped was obligated to inform UNHCR immediately. No information was found protesting or questioning the Lysol consignments until after part of the second purchase had been delivered. Therefore, from the second purchase of 560,000 litres in early December 1993, approximately 533,000 litres were retained in a bonded warehouse.

22. Upon the delivery of Lysol to Belgrade, distribution started immediately, mainly through local Red Cross societies. However, distribution was possible only in much smaller quantities than the incoming shipments. Difficulties were also experienced in transporting non-food items to Bosnia. An analysis made in May 1995 by the UNHCR logistics officer in Belgrade showed that distributions of Lysol to the Red Cross and regional warehouses in the Federal Republic of Yugoslavia and Bosnia totalled 358,488 litres and 16,128 litres respectively. Of that quantity, it appears that over 150,000 litres were actually distributed to beneficiaries. Once the Government of the Federal Republic of Yugoslavia had placed a ban on any further distribution

of Lysol, the remaining quantity (over 200,000 litres) was retrieved in 1995 from various locations for re-export by UNHCR.

23. Therefore, about 37 per cent of the first purchase had been distributed from UNHCR warehouses when the ban on the importation and distribution of Lysol took effect early in December 1993.

24. The final accounting for quantities of Lysol indicated that of the 1.57 million litres procured, about 155,000 litres were distributed and utilized in the former Yugoslavia, while the remaining quantity was re-exported to the supplier and to other UNHCR programmes that had a need for disinfectant.

VII. Re-export of Lysol from Belgrade

25. Documentation could not be found for the Government's decision banning the importation and distribution of Lysol effective in early December 1993. However, since that date, customs would not clear the remainder of the second purchase, which was under delivery.

26. The OIOS review showed that the UNHCR office in Belgrade had made substantial efforts to have the ban lifted. Meetings were held with various Federal Republic of Yugoslavia government offices where solutions and compromises were offered, but without success. The Federal Ministry for Work, Health and Social Policy finally informed the International Committee of the Red Cross (as the consignee), on 8 August 1994, that the country's annual need for Lysol was around 100 tons and, as that quantity had already been distributed, further import clearance would not be issued. At the end of 1994, UNHCR decided to remove the Lysol from Belgrade, and clearance for re-export was obtained in January 1995 from the Security Council's Sanctions Committee.

VIII. Financial loss

27. According to the Board of Auditors, the Administration estimated the total financial loss suffered in the transaction at \$3.04 million.⁶ That amount included all direct costs for the actual procurement and transportation, to and from Belgrade, together with indirect costs based on estimates for storage and handling, less refunds of \$112,346 received from the supplier for returned quantities.

28. The subsequent review by OIOS showed that the loss estimated by UNHCR also included the costs of those

quantities actually distributed and utilized in the Federal Republic of Yugoslavia and re-exported for use in other UNHCR programmes. OIOS has therefore reassessed the total loss resulting from the Government's ban on the importation and distribution of Lysol (see appendix). About 510,000 litres valued at nearly \$750,000 were distributed in the former Yugoslavia or transported to other UNHCR programmes that needed the disinfectants.

29. OIOS did not include the transport costs for the re-export of the Lysol to other UNHCR programmes in the calculation of the "loss", as the supply of disinfectants benefited those programmes. The transport costs from Belgrade to three destinations in Africa amounted to approximately \$151,000.

30. The storage costs related to the Lysol had been estimated by UNHCR at \$220,000. It should be noted that certain quantities were kept by the International Federation of Red Cross and Red Crescent Societies and the local Red Cross warehouses, which did not involve a direct charge to UNHCR. Also, it appears that the actual distribution in the Federal Republic of Yugoslavia was slightly higher than previously estimated. OIOS estimated that, based on the warehouse rate of \$3 per square metre, the storage costs when the Lysol was in actual storage (from December 1993 to mid-1995 when re-exporting commenced) were approximately \$160,000. Therefore, the final loss as calculated by OIOS is about \$2.1 million, as compared with the \$3.04 million originally reported.

IX. Establishment of responsibility

31. OIOS also looked into the question of individual responsibility for the losses. After reviewing the sequence of events in the case of the procurement of Lysol, OIOS believes that personal liability cannot be attached to any UNHCR staff member owing to either intentional or inadvertent action. Looking at this case in hindsight, it appears that the UNHCR staff in Belgrade and the staff supporting the Yugoslavia programme at UNHCR headquarters could not have anticipated this problem and did their utmost to resolve it once it arose.

32. *UNHCR management stated that the report provided a fair and balanced account of the circumstances and conditions under which the Lysol purchase was made, and justified the actions of UNHCR.*

X. Conclusions

33. The need for disinfectant in the former Yugoslavia was becoming a serious problem in 1993. Based on an initial needs assessment by WHO and UNHCR, Lysol brand disinfectant was chosen from the UNHCR Technical Manual as the most suitable product. OIOS has not obtained any technical or other information that would suggest otherwise.

34. The non-acceptance of Lysol into the country appeared to be a situation that could not have been anticipated by UNHCR, and the losses incurred, both financially and from the point of view of the beneficiaries of UNHCR, cannot be attributed to negligence by any UNHCR staff member. Even after the Government of the Federal Republic of Yugoslavia failed to issue further import clearance, the general health facilities in the former Yugoslavia continued to suffer from the shortage of disinfectants.

35. The financial loss suffered in the transaction, previously estimated at \$3.04 million, has been re-examined taking into account quantities distributed in the former Yugoslavia and other UNHCR programmes. Based on further analysis, OIOS considers the net loss to UNHCR to be approximately \$2.1 million.

(Signed) Karl Th. Paschke
Under-Secretary-General for
Internal Oversight Services

Notes

^a *Official Records of the General Assembly, Fifty-first Session, Supplement No. 5E (A/51/5/Add.5).*

^b *Ibid.*, para. 26

^c *Ibid.*, para. 121

^d *Ibid.*, para. 118

^e *Ibid.*, para. 120

Appendix

Costs and losses of Lysol procurement

	<i>Litres</i>	<i>Value (United States dollars)</i>
Procurement – first purchase order	1 015 000	1 505 558
Procurement – second purchase order	560 000	788 918
Insurance and inspection		<u>15 680</u>
Total purchase costs (average value per litre = \$1.467)		2 310 156
<i>Less:</i>		
Quantity forwarded to other UNHCR programmes	(354 708)	(520 356)
Quantity remaining in the Federal Republic of Yugoslavia and Bosnia	(155 808)	(228 570)
Refunds received from supplier	(1 064 484)	(112 346)
Subtotal		(861 272)
Loss after distribution and returns to supplier		<u>1 448 884</u>
<i>Add:</i>		
Repacking of Lysol in transit		59 976
Estimated loading, handling and customs services (1993-1995)		58 615
Transport cost to the United Kingdom (\$169,355 + \$178,898)		<u>348 253</u>
Subtotal		466 844
Estimated storage costs from December 1993 to mid-1995		<u>160 000</u>
Subtotal		626 844
Total estimated loss		<u>2 075 728</u>
<i>Costs not included in the above loss calculation</i>		
Transport cost to three African destinations		150 847
Less insurance refund		<u>(59 608)</u>



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Agenda item 37
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Fifty-third year

Letter dated 6 May 1998 from the Permanent Representative of Lebanon
to the United Nations addressed to the Secretary-General

On instructions from my Government and further to our earlier letters concerning Israel's attacks on southern Lebanon and the Western Bekaa and the arbitrary practices against the civilian inhabitants in which it engages on a daily basis, I have the honour to notify you of the series of such incidents that took place in April 1998.

1 April 1998

Between 0940 and 1040 hours Israeli warplanes overflew the South and the Shuf littoral at various altitudes.

At 1310 hours Israeli forces and the Lahad militia fired a number of 155-mm, 120-mm and 81-mm artillery shells at areas along the Litani river and Wadi al-Hujayr from their positions at Sharifah and Sala'ah.

At 1330 hours the Lahad militia closed the Kafr Tibnit crossing to traffic in both directions.

Between 1300 and 1340 hours Israeli forces and the Lahad militia fired a number of 120-mm and 81-mm shells at Nab'at Tasah, Mazra'at Uqmata and areas along the Litani river from their positions at Sujud, Sala'ah, Qaysar and Ksar al-Urush.

Between 1310 and 1345 hours Israeli warplanes overflew the South and the Western Bekaa at various altitudes.

Between 1640 and 1715 hours Israeli forces and the Lahad militia fired a number of 155-mm and 120-mm artillery shells in the direction of Jabal Sujud and Jabal Safi from their positions in Sharifah and Rayhan.



At 2000 hours an Israeli helicopter overflew the areas of Qilya, Dallafah, Maydun, Shawman and Niha.

At 2255 hours Israeli forces and the Lahad militia fired a number of 120-mm and 81-mm shells at areas along the Litani river from their positions at Zafatah, Suwaydah and on Tallat Dabshah and Tallat Tuhrah.

2 April 1998

On the night of 1 to 2 April 1998 between 2130 and 0130 hours, an Israeli reconnaissance aircraft overflew the Tyre area at high altitude.

Between 0150 and 0540 hours Israeli forces and the Lahad militia fired a number of 120-mm and 81-mm shells at areas around the Litani river, the environs of Qa'qa'iyat al-Jisr and the abandoned Lebanese Army barracks in Nabatiyah from their positions at Zafatah and Beaufort Castle.

At 0620 hours the Lahad militia fired two 81-mm shells at the environs of Haddatha from their position on Jabal Hamid.

Between 0700 and 0730 hours Israeli forces fired a number of 155-mm shells at the environs of Yatar and Majdal Zun from their position on Tall Ya'qub.

Between 0745 and 0800 hours an Israeli gunboat at sea off Mansuri fired a number of bursts in various directions.

Between 0900 and 1400 hours Israeli warplanes overflew the South and Rashayya at various altitudes.

Between 1110 and 1300 hours an Israeli reconnaissance aircraft overflew the areas of Nabatiyah and Iqlim al-Tuffah at high altitude.

Between 1250 and 1430 hours Israeli forces and the Lahad militia fired a number of 81-mm, 120-mm and 155-mm artillery shells in the direction of the environs of Luwayzah and Jabal al-Rafi' from their positions at Zafatah, Ksarat al-Urush and on Tallat Dabshah and Tallat Rum.

Between 1940 and 2040 hours Israeli forces and the Lahad militia fired a number of 155-mm and 120-mm shells at the environs of Yatar and Mlikh from their positions at Zafatah, Ksarat al-Urush and Ayshiyah.

At 2240 hours Israeli forces fired seven 155-mm artillery shells in the direction of Jabal Bi'r al-Dahr from their position at Abu Qamhah.

3 April 1998

Between 0640 and 0710 hours Israeli forces and the Lahad militia fired a number of 155-mm artillery shells at the environs of Mayfadun, Zibqin, Majdal Zun and Zawtar al-Gharbiyah from their positions at Zafatah, Sharifah and on Tall Ya'qub.

Between 0945 and 1000 hours the Lahad militia strafed the area around Tallat Ali al-Tahir with medium-weapons fire.

Between 1100 and 1110 Israeli helicopters overflew Wadi al-Jurmuq and areas along the Litani river.

Between 1155 and 1200 hours the Lahad militia directed several bursts of fire at the environs of Kafr Rumman and at areas along the Zahrani river from their position on Tallat Tuhrah.

Between 1215 and 1245 hours Israeli forces and the Lahad militia fired a number of 155-mm and 81-mm artillery shells at the environs of Tibnin and Bra'shit from their positions in Bawwabat Mays al-Jabal and Bayt Yahun.

Between 1930 and 1950 hours Israeli forces and the Lahad militia fired four 155-mm artillery shells and five 81-mm shells in the direction of the environs of Zibqin, Yatar and Wadi al-Saluqi from their positions on Tall Ya'qub and at Qalqat al-Qittah.

Between 2210 and 2230 hours Israeli forces fired four 155-mm artillery shells at the environs of Yatar from their position on Tall Ya'qub.

At 0530 hours an Israeli gunboat at sea off Mansuri fired several bursts in various directions.

Between 0650 and 0710 Israeli forces fired a number of 155-mm artillery shells at the environs of Mansuri and Yatar from their position on Tall Ya'qub.

Between 1935 and 2050 hours Israeli forces and the Lahad militia fired several 155-mm artillery shells at the environs of Yatar, Majdal Zun, Mansuri, Mayfadun and areas along the Litani river from their positions on Tall Ya'qub and at Zafatah. Israeli forces also sent up a number of flares over Kawkaba and Tallat al-Ahmadiyah from the occupied strip.

Between 2120 and 2210 hours Israeli forces and the Lahad militia fired a number of 81-mm shells and directed fire towards Hursh al-Mu'aytah, Wadi Basri and the abandoned army barracks at Nabatiyah from their positions on Tallat Mashnaqah, Tallat Rum, Tallat Anan, Tallat Dabshah and at Ali al-Tahir.

5 April 1998

Between 0030 and 0635 hours Israeli forces and the Lahad militia fired a number of 155-mm and 81-mm artillery shells and directed a number of bursts of fire at the environs of Majdal Zun, Mansuri, Izziyah, Zibqin, Yatar and the area around the abandoned Lebanese Army barracks at Nabatiyah from their positions on Tallat Rum, Tallat Mashnaqah and at Ali al-Tahir.

At 0530 hours an Israeli gunboat at sea off Mansuri directed several bursts of fire in various directions.

On the same day, the Bayt Yahun crossing remained closed to traffic in both directions.

Between 1515 and 1530 hours Israeli forces and the Lahad militia fired twelve 155-mm and 120-mm shells at Jabal Bi'r al-Dahr and areas to the west of

the Litani river in the vicinity of Zillaya from their positions on Tallat al-Ahmadiyah and at Abu Qamhah.

Between 1920 and 2000 hours Israeli forces and the Lahad militia fired a number of 155-mm artillery shells at the environs of Yatar, Zibqin and Majdal Zun from their positions on Tall Ya'qub and Tallat Ali al-Tahir and at Zafatah.

6 April 1998

Between 2000 and 0650 hours Israeli forces and the Lahad militia fired a number of 155-mm artillery shells at areas along the Zahrani river and at the environs of Mayfadun, Majdal Zun and Yatar from their positions at Zafatah and on Tallat Tuhrah.

Between 2000 and 0605 hours Israeli forces and the Lahad militia fired a number of 155-mm artillery shells at Mazra'at Uqmata and in the direction of the environs of Qa'qa'iyat al-Jisr and Wadi al-Hujayr from their positions at Zafatah, Ksar al-Urush and Tallat 'Ilman.

Between 0830 and 1115 hours Israeli forces and the Lahad militia fired a number of 155-mm artillery shells at areas along the Litani river and at the environs of Qa'qa'iyat al-Jisr and Wadi al-Qaysiyah from their positions at Zafatah and Bawwabat Mays al-Jabal.

At 1245 hours the Lahad militia and Israeli forces fired a number of artillery shells at Jabal Abu Rashid and Jabal al-Rahban from their positions on Tallat al-Ahmadiyah and Abu Qamhah.

Between 1745 and 1810 hours Israeli warplanes overflew the area of Nabatiyah at high altitude.

7 April 1998

At 0345 hours an Israeli gunboat at sea off Mansuri intercepted a fishing boat carrying Hussayn Ibrahim 'Amis and Tawfiq Hussayn and took both men to an undisclosed location.

Between 0650 and 0720 hours Israeli forces and the Lahad militia fired a number of 155-mm artillery shells in the direction of the environs of Yatar, Majdal Zun and of Wadi Bisri from their positions on Tall Ya'qub, Tallat Anan and Tallat Rum.

Between 1700 and 1800 hours the Lahad militia directed several bursts of fire in the direction of Nabih Berri St. in Nabatiyah from their position on Tallat Tuhrah.

Between 1900 and 2010 hours Israeli warplanes overflew the South at high altitudes.

8 April 1998

Between 0705 and 0725 hours Israeli forces fired a number of 120-mm shells at Mazra'at Uqmata from their position at Ksar al-Urush.

Between 1000 and 1030 hours an Israeli helicopter overflew the areas of Jarju', Arabsalim and Luwayzah.

At 1030 hours the Lahad militia directed several bursts of fire at Hursh al-Mu'yatah from their position on Tallat Rum.

At 2010 hours the Lahad militia fired a number of 155-mm shells in the direction of Wadi Bisri and Zawtar al-Sharqiyah from their positions at Zafatah and Dahr al-Mashnaqah and on Tallat Rum.

At 2200 hours two Israeli helicopters overflew the waters off Tyre.

9 April 1998

Between 0010 and 0445 hours the Lahad militia directed several bursts of fire in the direction of Wadi Bisri from their position on Tallat Rum.

Between 0130 and 0500 hours Israeli forces and the Lahad militia directed several bursts of fire in the direction of Tallat Tuhrah from their positions on Tallat Tuhrah and Tallat Hardun.

At 0712 hours Israeli forces fired six 155-mm artillery shells at Birkat Jabbur from their position in Abu Qamhah.

Between 1430 and 2115 hours Israeli forces and the Lahad militia strafed the area around their positions at Beaufort Castle and Tallat Dabshah with medium-weapons fire.

10 April 1998

At 0600 hours the Lahad militia fired two 81-mm shells in the direction of Wadi al-Habib from their position at Tumat Jazzin.

Between 0630 and 0730 hours an Israeli reconnaissance aircraft overflew the area of Nabatiyah at high altitude.

Between 0850 and 1200 hours Israeli forces and the Lahad militia directed several bursts of fire at Hursh al-Mu'yatah from their positions on Tallat Rum and at Castle Beaufort.

Between 0930 and 1510 an Israeli MK reconnaissance aircraft overflew the area of Nabatiyah.

Between 1710 and 1845 hours Israeli forces and the Lahad militia directed several bursts of fire in the direction of Wadi Bisri and the environs of Yahmur from their positions at Beaufort Castle and on Tallat Anan.

11 April 1998

Between 0000 and 0230 hours Israeli forces and their client militia fired a number of 120-mm shells at Sujud and the area around Tallat Sujud and Tallat Rizlan from their positions at Ksar al-Urush and on Tallat Sujud and Tallat Rizlan.

Between 1245 and 1400 hours Israeli forces and their client militia fired a number of 155-mm and 120-mm shells at the outskirts of Sujud and Mazra'at Uqmata, the environs of Luwayzah and the area around the army barracks in Mlikh from their positions at Ksar al-Urush, Zafatah and on Tallat Sujud.

At 1930 hours Israel's client militia directed several bursts of fire in the direction of Wadi al-Habib from its position at Tumat Jazzin.

At 1910 hours Israel's client militia fired a number of 81-mm shells and directed several bursts of fire at areas along the Litani river from its position in 'Ilman and Qusayr.

12 April 1998

Between 0230 and 0630 hours Israeli forces fired a number of 120-mm shells at the area around its position on Tallat Sujud and sent up two illumination flares over the environs of Zawtar al-Sharqiyah and Zawtar al-Gharbiyah.

Between 0900 and 1000 hours Israeli warplanes overflew the South at various altitudes and attacked the environs of Tallat Sujud, firing a number of air-to-surface missiles.

Between 1530 and 1605 hours Israeli forces fired fourteen 155-mm artillery shells on the watercourses at Hujayr, Qaysiyah and Saluqi and the environs of the villages of Tulin and Sawwanah from their position at Bawwabat Mays al-Jabal.

At 1750 hours Israeli forces and their client militia fired three 155-mm artillery shells towards the environs of Majdal Zun, Mansuri and Zibqin from their positions at Tall Ya'qub and Harthun.

At 2115 hours Israeli forces fired two 155-mm artillery shells on the outskirts of Qabrikha from their position at Bawwabat Mays al-Jabal.

At 2200 an Israeli reconnaissance aircraft overflew the Nabatiyah area at high altitude.

13 April 1998

Between 0650 and 0720 hours Israeli forces and their client militia fired a number of 120-mm and 81-mm artillery shells and directed bursts of fire from their positions at Ksar al-Urush and Tallat Sujud towards areas around Nab'at Tasah, Jabal al-Rafi' and the environs of Tallat Sujud.

Between 1015 and 1215 hours Israeli warplanes overflew the South and the Western Bekaa at various altitudes.

At 1445 hours Israeli forces fired a number of 120-mm and 81-mm artillery shells on the environs of Jabal Sujud from their position at Ksar al-Urush.

Between 2125 and 2145 hours an Israeli gunboat at sea off Mansuri opened fire in various directions.

At 1522 hours Israeli forces fired a number of 120-mm artillery shells in the direction of Jabal al-Rafi' from their position at Ksar al-Urush.

14 April 1998

Between 1045 and 1450 hours an Israeli reconnaissance aircraft overflew the South at high altitude.

At 1440 hours Israeli forces directed a number of bursts of fire towards the abandoned army barracks at Nabatiyah from their position on Tallat Dabshah.

Between 2015 and 2050 hours two Israeli helicopters overflew Zahrani, Nabatiyah, the eastern Sidon area, areas along the Zahrani river and the Maydun region of the Western Bekaa.

Between 2125 and 2330 hours Israeli forces and their client militia fired a number of 155-mm artillery shells on the environs of Mayfadun and along the Zahrani river from their positions at Sharifah-Zafatah and Tallat Ali al-Tahir.

Between 2130 and 2245 hours Israeli warplanes overflew the South at high altitude.

15 April 1998

At 0130 hours Israeli warplanes overflew the Nabatiyah area at high altitude.

At 0750 hours Israeli forces fired a number of 120-mm artillery shells on the environs of Tallat Sujud from their position at Ksar al-Urush.

At 1750 hours Israel's client militia fired a number of 155-mm artillery shells on the environs of Zawtar al-Gharbiyah and Qa'qa'iyat al-Jisr from its position at Zafatah.

Between 2130 and 2300 hours Israeli warplanes overflew the South, the Western Bekaa and Mount Lebanon at high altitude.

16 April 1998

At 0630 hours Israeli forces fired three 155-mm artillery shells on the environs of Yatar from their position on Tall Ya'qub.

Between 1400 and 1645 hours Israeli warplanes overflew the South and the Western Bekaa at high altitude.

Between 2150 and 1522 hours Israel's client militia fired a number of 81-mm artillery shells towards Hursh al-Mu'aytah and the road to the Tallat Rum position from its positions on Tallat Rum and Tallat al-Mashnaqah.

At 0640 hours Israeli forces and their client militia fired a number of 155-mm and 120-mm artillery shells on Jabal Safi, Jabal Sujud and along the Zahrani river from their positions at Ksar al-Urush-Tall Ya'qub and Zafatah.

17 April 1998

Between 1825 and 1910 hours Israeli forces and their client militia bombarded the abandoned army barracks at Nabatiyah and the environs of Tallat Dabshah and Tallat Ali al-Tahir with 81-mm artillery shells and bursts of fire from their positions on Tallat Rum, Tallat Ali al-Tahir and Tallat Dabshah.

At 2240 hours Israeli forces and their client militia fired a number of 155-mm and 120-mm artillery shells on the environs of Jisr Habbush, Wadi Bisri, Jabal al-Rafi' and Jabal Safi from their positions at Zafatah-Ksarat al-Urush and on Tallat Rum and Tallat Suwaydah.

At 2225 hours Israeli forces and their client militia fired a number of artillery shells on the environs of Haddatha, Bra'shit and Tibnin from inside the occupied strip.

18 April 1998

Between 1825 and 1910 hours Israeli forces and their client militia bombarded the abandoned army barracks at Nabatiyah and the environs of Tallat Dabshah with 81-mm artillery shells and bursts of fire from their positions on Tallat Rum, Tallat Ali al-Tahir and Tallat Dabshah.

At 2240 hours Israeli forces and their client militia fired a number of 155-mm and 120-mm artillery shells on the environs of Jisr Jawshar, Wadi Bisri, Jabal al-Rafi' and Jabal Safi from their positions at Zafatah-Ksarat al-Urush and on Tallat Rum and Tallat Suwaydah.

At 2225 hours Israeli forces and their client militia fired a number of artillery shells on the environs of Haddatha, Bra'shit and Tibnin from inside the occupied strip.

Between 0015 and 0640 hours Israeli forces and their client militia fired a number of 155-mm, 120-mm and 81-mm artillery shells on the environs of Yatar and Majdal Zun, along the Zahrani river and on the abandoned army barracks at Nabatiyah from their positions at Tall Ya'qub-Zafatah and on Tallat Dabshah, Tallat Suwaydah and Antaharah.

At 1600 hours Israel's client militia seized Bilal Ali Nab'a from the village of Shaba'a and took him to an unknown location.

19 April 1998

At 0600 hours the Israeli forces bombarded the environs of Tibnin, Bra'shit, Sawwanah, Shaqra, Khirbat Silm, Majdal Silm and Qabrikha.

At 1400 hours Israeli warplanes overflew the camps and town of Sidon at medium altitude.

At 1600 hours Israeli forces and their client militia bombarded the environs of Kafra, Yatar, Haris, Haddatha and Tibnin.

20 April 1998

At 0630 hours Israeli forces and their client militia bombarded the environs of Habbush and Nabatiyah al-Fawqa.

At 1100 hours the Israeli client militia strafed the area along the Tumat Niha road.

At 1310 hours Israeli warplanes overflew Sidon at high altitude.

21 April 1998

At 0630 hours Israeli forces fired a number of 155-mm artillery shells on the environs of Yatar from their position on Tall Ya'qub.

Between 1340 and 1400 hours the client militia fired six 81-mm artillery shells on the environs of Shaqra from its position at Muhaybib.

Between 2050 and 2110 hours the Lahad militia fired a number of 155-mm artillery shells on the environs of Qa'qa'iyat al-Jisr and Jisr Habbush from its position at Zafatah.

22 April 1998

Between 0545 and 0800 hours Israeli forces and their client militia fired a number of 155-mm and 120-mm artillery shells on the environs of Mayfadun, Jabal Safi and Wadi Habbush from their positions at Zafatah-Ksar al-Urush and on Tallat al-Ruzlan.

At 1440 hours Israel's client militia strafed the area of Ma'bar Zamriya.

Between 2000 and 2020 hours Israeli forces fired a number of 155-mm artillery shells on areas along the Zahrani river, on Tallat al-Suwayda and on the environs of Qa'qa'iyat al-Jisr and Mayfadun from their position on Tallat Sharifah.

At 2200 hours the Lahad militia fired a number of rounds in the direction of Jabal al-Rafi' from its position on Tallat Sujud.

23 April 1998

At 0730 hours Israeli warplanes overflew the Tibnin region at high altitude.

At 0915 hours Israeli forces fired a number of 155-mm artillery shells on the environs of Kafra, Haris, Sribbin and Shaqra from their position on Tall Ya'qub.

Between 1915 and 2045 hours Israeli forces and their client militia fired a number of 155-mm artillery shells on the environs of Tulin, Qallawiyah and Mayfadun and along the Zahrani river from their positions at Bawwabat Mays al-Jabal and Zafatah.

24 April 1998

At 0400 hours the client militia fired a number of rounds in the direction of Bi'r al-Dahr from its position on Tallat Zaghlah.

At 0430 hours an Israeli gunboat at sea off Baydah opened fire in various directions.

Between 0620 and 0705 hours Israeli forces and their client militia fired a number of 155-mm and 120-mm artillery shells on the environs of Yatar, Majdal Zun, Shaqra, Jabal Safi and areas around Jisr Habbush from their positions on Tall-Ya'qub-Ksarat al-Urush and Tallat Sujud.

25 April 1998

At 0645 hours Israeli forces fired three 155-mm artillery shells on the environs of Yatar from their position on Tall Ya'qub.

At 1725 hours Israeli forces and their client militia fired a number of shells and directed bursts of fire from their positions on Tallat Suwaydah and Tallat Tuhrah onto the areas surrounding those positions and on Wadi al-Akhdar.

Between 1440 and 1700 hours Israeli forces and their client militia fired eight 155-mm artillery shells on Jabal Bi'r al-Dahr and Wadi Habib from their positions at Abu Qamhah and Tumat Jazzin.

26 April 1998

Between 0630 and 0710 hours Israeli forces and their client militia fired a number of 155-mm artillery shells on Wadi Qaysiyyah, Jabal Safi, Jabal al-Rafi' and areas along the Nab'at Tasah and around Jisr Habbush from their positions at Bawabat Mays al-Jabal, Zafatah and Ksarat al-Urush.

Between 1950 and 2030 hours Israeli forces and their client militia fired a number of 155-mm artillery shells on the environs of Yatar, Majdal Zun, Izziyah and Mayfadun from their positions at Sharifah-Tall Ya'qub and Zafatah.

Between 2045 and 2115 hours two Israeli helicopters overflew the environs of Haddatha.

27 April 1998

Between 0650 and 0800 hours Israeli forces fired a number of 155-mm artillery shells on the environs of Yatar, Majdal Zun, Zibqin and Jibal al-Butum from their positions on Tall Ya'qub and Jabal Balat.

Between 1400 and 1545 hours Israeli forces and their client militia fired a number of 155-mm artillery shells on the environs of Siddiqin, Qabrikha, Jibal al-Butum, Zibqin and Yatar from their positions at Rajmayn, Tall Ya'qub and Markaba.

Between 2000 and 2100 hours the client militia fired a number of 155-mm artillery shells on the environs of Zawtar al-Gharbiyah, Qa'qa'iyat al-Jisr and along the Litani river from its position at Zafatah.

28 April 1998

At 0620 hours Israeli forces and their client militia fired a number of 120-mm artillery shells on the environs of Jisr Habbush from inside the occupied strip.

Between 1615 and 1950 hours the client militia fired three 155-mm artillery shells on the environs of Mansuri from its positions at Tall Ya'qub and Rajmayn.

29 April 1998

Between 0500 and 0645 hours an Israeli reconnaissance aircraft overflew Nabatiyah, Iqlim al-Tuffah and the eastern Sidon region at high altitude.

Between 0900 and 1425 hours Israeli forces and their client militia fired a number of 120-mm artillery shells and other rounds towards areas around Nab'at Tasah and Hursh al-Mu'aytah from their positions at Ksar al-Urush and on Tallat al-Burj and Tallat Rum.

Between 1945 and 2025 hours Israeli forces and their client militia fired a number of artillery shells and other rounds towards Hursh al-Mu'aytah, Jabal Safi and Jabal al-Rafi' from their positions on Tallat Rum, Tallat Ruzlan and Ksar al-Urush.

30 April 1998

Between 0200 and 0645 hours Israeli forces and their client militia fired a number of 155-mm artillery shells and other rounds towards Jabal al-Safi and Qal'at al-Shaqif from their positions at Zafatah-Ksar al-Urush and on Qal'at al-Shaqif and Tallat Ali al-Tahir.

At 2135 hours the client militia fired three 81-mm artillery shells on the environs of Shaqra from its position on Qal'at al-Qittah.

At 2140 hours the client militia fired ten 81-mm artillery shells on Dallafah from its position at Ahmadiyah.

The Lebanese Government strongly condemns the continued Israeli occupation and the fresh attacks and arbitrary practices against the Lebanese civilian population that have caused further serious damage to property.

Like previous attacks, this new series is in flagrant violation of the sovereignty and independence of Lebanon and constitutes a breach of the purposes and principles of the Charter of the United Nations, of international law and of basic human rights.

I should be grateful if you would have this letter circulated as a document of the General Assembly, under agenda item 37, and of the Security Council.

(Signed) Samir MOUBARAK
Ambassador
Permanent Representative



**General Assembly
Security Council**

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7 May 1998

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GENERAL ASSEMBLY
Fifty-second session
Agenda item 61
QUESTION OF CYPRUS

SECURITY COUNCIL
Fifty-third year

Letter dated 7 May 1998 from the Permanent Representative of Cyprus
to the United Nations addressed to the Secretary-General

Upon instructions from my Government and further to my letter dated 4 May 1998 (A/52/885-S/1998/370), I have the honour to draw your attention to further violations of the airspace of the Republic of Cyprus and of the flight information region of Nicosia by military aircraft of the Turkish Air Force.

The new violations occurred on 6 May 1998, when two F-16 fighter aircraft of the Turkish Air Force entered the Nicosia flight information region at 1011 hours from a north-westerly direction, violated the national airspace of the Republic of Cyprus north of the town of Kyrenia and exited the Nicosia flight information region at 1028 hours.

On behalf of the Government of the Republic of Cyprus, I wish to strongly protest once more against these new violations of the sovereignty and territorial integrity of the Republic of Cyprus, which are in complete disregard of the Charter of the United Nations, the relevant decisions of the Organization on the question of Cyprus as well as the international civil aviation regulations.

I should be grateful if you would have the text of the present letter circulated as a document of the General Assembly under agenda item 61, and of the Security Council.

(Signed) Sotirios ZACKHEOS
Ambassador
Permanent Representative



General Assembly

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Fifty-second session

Agenda item 114

Review of the efficiency of the administrative and financial functioning of the United Nations

Gratis personnel provided by Governments and other entities

Report of the Advisory Committee on Administrative and Budgetary Questions

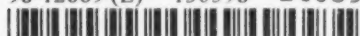
1. The Advisory Committee on Administrative and Budgetary Questions has considered the following reports of the Secretary-General relating to gratis personnel provided by Governments and other entities: quarterly reports on the acceptance of gratis personnel (A/52/709 and Corr.1 and A/C.5/52/43); revised draft guidelines for the acceptance of gratis personnel (A/52/698); methodology to be applied to, and the level of, administrative support costs regarding gratis personnel (A/52/823); and phasing out the use of gratis personnel in the Secretariat (A/52/710). All of those reports were requested by the General Assembly in its resolution 51/243 of 15 September 1997. During its consideration of the reports, the Advisory Committee met with representatives of the Secretary-General who provided additional information.

Quarterly reports on the acceptance of gratis personnel (A/52/709 and Corr.1 and A/C.5/52/43)

2. The Advisory Committee recalls that the General Assembly, in paragraph 6 of its resolution 51/243, requested the Secretary-General to report on a quarterly basis, for appropriate action, on the acceptance of type II gratis personnel with a view to ensuring compliance with the

provisions of paragraph 4 of the resolution. The Secretary-General's report of 4 December 1997 (A/52/709 and Corr.1) provides relevant information for the period from 16 to 30 September 1997, including receiving departments, nationality, duration of service and functions of the gratis personnel in question. Paragraph 3 of the report indicates that two individuals were accepted, after the adoption of resolution 51/243, in the Department of Economic and Social Affairs and the Department of Humanitarian Affairs, whose term of engagement was to end on 28 February 1998. In addition, paragraph 8 of the report, and the annexes thereto, indicate that the total number of gratis personnel declined from 330 at 31 October 1996, to 290 at 30 September 1997, and the number of receiving departments or units decreased from 15 to 9.

3. The information provided in the report of 10 March 1998 (A/C.5/52/43) covers the period from 1 October to 31 December 1997, and indicates that a total of 14 new type II gratis personnel started their service during that period, six in the Department of Peacekeeping Operations and eight in the International Criminal Tribunal for Rwanda. The Committee is of the opinion that the information provided in the reports fails to demonstrate the extent to which three of the six gratis personnel accepted in the Department of Peacekeeping Operations and the two gratis personnel accepted by the Department of Economic and Social Affairs



and the Department of Humanitarian Affairs provide expertise not available within the Organization for very specialized functions, as is required under paragraph 4 (a) of resolution 51/243.

4. Indeed, the Committee is of the opinion that practically all functions assigned to the gratis personnel referred to in the quarterly reports under consideration should be performed by staff members, and that it is the lack of adequate staff resources that gives rise to the acceptance of type II gratis personnel rather than the need for very specialized functions not already available in the Secretariat or obtainable through recruitment. In the future, there should be a clearer demonstration and justification that acceptance of gratis personnel meets the requisite criteria.

5. The justification provided in paragraph 4 of the second report (A/C.5/52/43) for the other three new gratis personnel in the Department of Peacekeeping Operations – an engineering officer, a mission planning officer and a duty officer – is that they were accepted in the context of the transitional measures required for the execution of the phasing-out plan of the Secretary-General (see A/52/710).

6. In the table provided in the report (A/C.5/52/43), and in paragraph 5 specifically, it is also indicated that eight investigators were accepted in December 1997 to carry out specialized functions at the International Tribunal for Rwanda “pending completion of the recruitment procedures against posts approved by the General Assembly in the Tribunal’s budget”. Their term of engagement is scheduled to expire on 30 June 1998. Although the Committee was informed that this acceptance was linked to a sudden surge in the workload of the Tribunal, it believes that this action contravenes the procedures and provisions of resolution 51/243, which do not allow acceptance of gratis personnel on the grounds of failure by the Secretariat to recruit staff in an expeditious manner.

7. The Committee recommends that the Secretary-General continue to issue quarterly reports, clearly demonstrating the acceptance of gratis personnel in accordance with the provisions of paragraphs 4 (a) and (b) of resolution 51/243. The next report, which should be issued very shortly, should cover the period from 1 January to 31 March 1998, and should include information provided in the same form as the annexes to the Secretary-General’s first report (A/52/709).

Revised guidelines for type II gratis personnel (A/52/698)

8. The Advisory Committee welcomes the redrafted guidelines (A/52/698), which take into account the observations and recommendations made by the Committee in its previous report (A/51/813) and the principles set out in paragraph 11 of General Assembly resolution 51/243. The Committee notes, however, that although the title of the report refers to “gratis personnel provided by Governments and other entities”, the text of the guidelines is addressed to Governments as sole providers. The Committee was assured that only Member States would be approached. However, the Committee believes that the issue of accountability regarding other entities which have in the past provided such personnel, as in the case of the International Tribunal for the Former Yugoslavia, should be addressed.

9. With regard to third-party claims, the Committee considered that the provision in paragraph 25 of the report (A/52/698) needed to be clarified. The Committee requested that that provision be redrafted by the Office of Legal Affairs, on the basis of the comments and observations made by the Committee during the hearings. The revised text submitted by the Office of Legal Affairs, with an explanation of its consequences, appears in annex I to the present report.

10. In paragraph 27 of the report, it is indicated that the essential duties and obligations of the gratis personnel towards the Organization will be spelled out both in the agreement with the donor and in an individual undertaking signed by the gratis personnel. The Committee was informed that the models used would be similar to those used by the Tribunal for the Former Yugoslavia, amended to reflect the guidelines that will be approved by the General Assembly. Those models, received by the Committee upon its request, are set out in annex II to the present report.

11. The Committee recommends approval of the redrafted guidelines contained in document A/52/698, with the revisions and amendments indicated in paragraphs 8 to 10 above. The guidelines should be circulated in a bulletin or administrative instruction, and programme managers should be held personally accountable for the proper implementation of the guidelines in accordance with the principles of resolution 51/243.

Report on the methodology to be applied to, and the level of, administrative support costs regarding gratis personnel (A/52/823)

12. The views of the Advisory Committee with regard to the charging of support costs in the case of the acceptance of gratis personnel were stated in its previous report (A/51/813). The views of the Committee are echoed in paragraphs 8 and 9 of the Secretary-General's report (A/52/823).

13. The Committee understands that the personnel of the Security Council Special Commission, previously classified as type II, have been reclassified as type I. The Committee recalls that, in his previous report (A/51/688 and Corr.1), the Secretary-General had included this personnel as type II, indicating that they performed under special service agreements, whose support costs were funded from the frozen assets or voluntary contributions related to Security Council resolutions 778 (1992) and 986 (1995) (see A/51/813, para. 6 (b)). The Committee points out that type I gratis personnel are governed by administrative instruction ST/AI/231/Rev.1 of 23 January 1991, which applies to gratis personnel performing functions of a purely technical and operational nature funded through voluntary contributions.

Phasing out the use of gratis personnel in the Secretariat (A/52/710)

14. The Advisory Committee recalls that the General Assembly, in paragraph 9 of its resolution 51/243, requested the Secretary-General to phase out expeditiously type II gratis personnel falling outside the scope of paragraph 4 of the resolution, and to report thereon to the General Assembly at its fifty-second session. In paragraph 13 of the resolution, the Assembly further requested him to report on the impact of the phasing out.

15. The Committee notes from the information provided in the annex to document A/52/710 that, as of 1 November 1997, a total of 204 type II gratis personnel are reported in various departments. This compares with a total of 290 reported in document A/52/709 (see para. 2 above). The largest number, 130 gratis personnel, is reported in the Department of Peacekeeping Operations, and 52 in the Tribunal for the Former Yugoslavia.

16. The Committee was informed that the phasing-out plan had been prepared on the basis of attrition of existing tours of duty of the individuals in question. The Committee further

notes that, with the exception of the Department of Peacekeeping Operations, all gratis personnel would be phased out by 31 December 1998. In the case of the Department of Peacekeeping Operations, the final date indicated in the report for a complete phase-out is 31 December 1999.

17. However, the Committee points out that the final phase-out date of 31 December 1999 indicated for the Department of Peacekeeping Operations is superseded by the information provided and resources requested in connection with the requirements for the support account for peacekeeping operations (A/52/837) for the period from 1 July 1998 to 30 June 1999. In paragraph 19 of that report, the Secretary-General proposes the conversion of 106 gratis personnel into support account posts. During the Committee's hearings on the subject of the support account, representatives of the Secretary-General, in response to queries of the Committee, confirmed that if the request for conversions were accepted by the General Assembly it would be possible to phase out all gratis personnel in the Department of Peacekeeping Operations by the end of December 1998.

Annex I

Revised guidelines for gratis personnel

Third-party claims: revised text submitted by the Legal Counsel

The United Nations will be responsible for dealing with claims by third parties where the loss or damage to their property, or death or personal injury, was caused by the actions or omissions of the gratis personnel in the performance of services to the United Nations under the agreement with the donor. However, if the loss, damage, death or injury arose from gross negligence or wilful misconduct of the gratis personnel provided by the donor, the donor shall be liable to the United Nations for all amounts paid by the United Nations to the claimants and all costs incurred by the United Nations in settling such claims.

Consequences of the revision of the text

Under the guidelines as currently drafted (A/52/698, para. 25), the donor of the gratis personnel, and not the United Nations, would be responsible for handling and settling claims arising from gross negligence or wilful misconduct of personnel provided by it. Under the revised text set out above, the United Nations would be responsible for handling and, where appropriate, settling such claims. It would then seek recovery from the donor for amounts paid by the United Nations to the claimants and for costs incurred by it in settling the claims. It would leave the donor the responsibility to seek reimbursement from the gratis personnel (if such recovery is available to the donor). However, there are likely to be cases in which the donor may have difficulty responding to claims by the United Nations for reimbursement of the amounts paid by the United Nations to the claimants. It would therefore be desirable for the United Nations to explore with the donor the possibility of the donor's obtaining insurance to cover liabilities incurred by the United Nations to third parties arising from the acts or omissions of the gratis personnel.

Annex II

MODEL

MEMORANDUM OF AGREEMENT
BETWEEN THE UNITED NATIONS
AND THE GOVERNMENT OF
FOR THE CONTRIBUTION OF PERSONNEL
TO THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

WHEREAS the United Nations Security Council, in its resolution 808 (1993) of 22 February 1993, and 827 (1993) of 25 May 1993, decided to establish an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Security Council upon the restoration of peace (hereinafter: "The International Tribunal");

WHEREAS by paragraph 6 of resolution 827 (1993) the Security Council urged States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;

AND WHEREAS the Government of (hereinafter: "the Government") offered to make available to the International Tribunal the services of qualified personnel to assist in ;

NOW THEREFORE the United Nations and the Government (hereinafter: "the Parties") have agreed as follows.

ARTICLE I
OBLIGATIONS OF THE GOVERNMENT

1. The Government agrees to make available to the International Tribunal for the duration and purposes of this Agreement the services of [expert personnel] (hereinafter: "..... Personnel") listed in Annex I hereto. Changes and modifications to the Annex may be made with the agreement of the Parties.
2. The Government undertakes to pay all expenses in connection with the services of the Personnel, including salaries, travel costs, and allowances and other benefits to which they are entitled, except as hereinafter provided.
3. The Government undertakes to ensure that during the entire period of service under this Agreement, the Personnel are covered by adequate medical and life insurance, as well as insurance coverage for service-incurred illness, disability or death.
4. The Government shall pay to the United Nations a sum equivalent to 13 per cent of the total value of the services of the Personnel as administrative expenses.

ARTICLE II
OBLIGATIONS OF THE UNITED NATIONS

1. The United Nations shall provide the Personnel with office space, support staff, equipment and other resources necessary to carry out the tasks assigned to them at [recipient office].
2. During any mission assignment of the Personnel to [any other territory outside the seat of the International Tribunal], the United Nations shall be responsible for the payment of travel costs to the mission area and return.

3. The United Nations shall pay to the personnel, during their mission assignment referred to in paragraph 2 above, a Daily Subsistence Allowance (DSA) in accordance with the schedule of rates established for United Nations personnel.)

4. The United Nations does not accept any liability for claims for compensation in respect of illness, injury or death arising out of or related to the provision of services under this Agreement, except where such illness, injury or death results directly from the gross negligence of the officials or staff of the United Nations.

ARTICLE III OBLIGATIONS OF THE PERSONNEL

The Government agrees to the terms and obligations specified below, and shall, as appropriate, ensure that the Personnel performing services under this Agreement comply with these obligations:

(a) The Personnel shall perform their functions under the authority, and in full compliance with the instructions of (Registrar/Prosecutor), and any person acting on his behalf.

(b) The Personnel shall undertake to respect the impartiality and independence of the International Tribunal and shall neither seek nor accept instructions regarding the services performed under this Agreement from any Government or from any authority external to the International Tribunal.

(c) The Personnel shall refrain from any conduct which would adversely reflect on the International Tribunal or the United Nations and shall not engage in any activity which is incompatible with the aims and objectives of the United Nations.

(d) The Personnel shall comply with all rules, regulations, instructions, procedures or directives issued by the International Tribunal.

(e) The Personnel shall exercise the utmost discretion in all matters relating to their functions and shall not communicate, at any time, without the authorisation of the (Registrar / Prosecutor), to the media or to any institution, person, Government or other authority external to the International Tribunal, any information that has not been made public, and which has become known to them by reason of their association with the International Tribunal. They shall not use any such information without the written authorisation of the (Registrar / Prosecutor), and in any event, such information shall not be used for personal gain. These obligations do not lapse upon expiration of this Agreement.

(f) The members of the Personnel shall sign an undertaking in the form attached to this Agreement in Annex II.

ARTICLE IV LEGAL STATUS OF THE PERSONNEL

1. The Personnel shall not be considered in any respect as being officials or staff of the United Nations.

2. The Personnel shall be considered "Persons Performing Missions for the Tribunal" within the meaning of Article XVII of the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the International Tribunal.

ARTICLE V CONSULTATION

The United Nations and the Government shall consult with each other in respect of any matter that may arise in connection with this Agreement.

**ARTICLE VI
SETTLEMENT OF DISPUTES**

Any dispute, controversy or claim arising out of or relating to, this Agreement shall be settled by negotiation or other mutually agreed mode of settlement.

**ARTICLE VII
ENTRY INTO FORCE; DURATION AND TERMINATION**

This Agreement shall enter into force upon, and shall remain in force for, unless terminated earlier by either Party upon one month's written notice to the other Party. The Agreement may be extended with the consent of both Parties on the same conditions and for a further agreed period.

**ARTICLE VIII
AMENDMENT**

This Agreement may be amended by written agreement of both Parties. Each Party shall give full consideration to any proposal for an amendment made by the other Party.

IN WITNESS WHEREOF, the respective representatives of the United Nations and the Government of have signed this Agreement.

DONE in The Hague, this day of in the year 1996, in two originals in the English language.

FOR THE UNITED NATIONS

FOR THE GOVERNMENT OF
.....

Registrar
International Criminal Tribunal
for the Former Yugoslavia

Ambassador of to the Kingdom
of the Netherlands

ANNEX I
LIST OF _____ PERSONNEL

[names]

ANNEX II UNDERTAKING

I, the undersigned, as a member of the Personnel made available by the Government of to the United Nations pursuant to the Memorandum of Agreement between the United Nations and the Government of for the Contribution of Personnel to the International Criminal Tribunal for the former Yugoslavia (hereinafter: "the International Tribunal"), hereby undertake to abide by the following:

(a) I understand that, as a member of the Personnel, I shall not be considered in any respect as being an official or a staff member of the United Nations.

(b) I further understand that, while in the Netherlands, I will be considered as a "Person Performing Missions for the Tribunal" within the meaning of Article XVII of the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the International Tribunal, and be accorded the legal status of Expert on Mission in accordance with sections 22 and 23 of Article VI of the Convention on the Privileges and Immunities of the United Nations of 18 February 1946.

(c) I shall perform my functions under the authority, and in full compliance with the instructions of the [Registrar / Prosecutor] of the International Tribunal, or any person acting on his behalf.

(d) I shall respect the impartiality and independence of the International Tribunal and shall not seek nor accept instructions regarding my functions as a member of the Personnel from any Government or from any authority external to the International Tribunal.

(e) I shall refrain from any conduct which would adversely reflect on the International Tribunal or the United Nations and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations or the exercise of my functions.

(f) I shall exercise the utmost discretion in all matters relating to my functions and shall not communicate, at any time, without the authorization of the [Registrar / Prosecutor], to the media or to any other institution, person, Government or other authority external to the International Tribunal, any information that has not been made public, and which has become known to me by reason of my functions. I shall not use any such information without the authorization of the Prosecutor and, in any event, such information shall not be used for personal gain. These obligations do not lapse upon termination of my assignment.

(g) I shall comply with all rules, regulations, procedures, instructions or directives issued by the International Tribunal.

Name printed in block letters

Signature

Date



General Assembly
Security Council

Distr.
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S/1998/376
6 May 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda item 135

SECURITY COUNCIL
Fifty-third year

REPORT OF THE INTERNATIONAL TRIBUNAL
FOR THE PROSECUTION OF PERSONS
RESPONSIBLE FOR SERIOUS VIOLATIONS
OF INTERNATIONAL HUMANITARIAN LAW
COMMITTED IN THE TERRITORY OF THE
FORMER YUGOSLAVIA SINCE 1991

Identical letters dated 5 May 1998 from the Secretary-General
addressed to the President of the General Assembly and the
President of the Security Council

I am attaching, for your consideration and that of the members of the Security Council and the General Assembly, a letter dated 16 April 1998 from the President of the International Tribunal for the Former Yugoslavia. In her letter, President McDonald raises the problem faced by the Tribunal as a result of the recent dramatic increase in the number of persons accused of crimes under the Statute of the Tribunal who are in custody in the Tribunal's Detention Unit at The Hague. It is recalled that a similar request for the establishment of a third Trial Chamber for the International Criminal Tribunal for Rwanda was submitted for the consideration of the Assembly and the Council on 15 October 1997 (A/52/504-S/1997/812) and that a resolution to that effect was adopted by the Council on 30 April 1998 (resolution 1165 (1998)).

President McDonald notes that, with the current capacity of the two Trial Chambers, and with the possibility that further indicted persons might be transferred to the custody of the Tribunal or that several cases might be severed, the Tribunal might require considerable time to complete all the trials. This would run counter to the duty of the Tribunal to provide accused persons with both a fair and expeditious trial, in the interest of the mandate of the Tribunal for the maintenance of international peace and security in the former Yugoslavia. President McDonald further notes that a number of Member States have offered to help by financing the building of two additional courtrooms. With the establishment of a third Trial Chamber, therefore, all three courtrooms will be fully utilized.



In order to address the foregoing requirements, President McDonald requests that a third Trial Chamber of the Tribunal, staffed by three additional judges, be established, and that a fourth judge be added, to be assigned as needed to either a Trial Chamber or to the Appeals Chamber. She underlines the urgency of this request, especially since a period of time would be required before a third Trial Chamber is fully functional.

As requested by members of the Security Council after her address on 12 February 1998, President McDonald attaches to her letter a more detailed report as well as an estimate of annual costs to the Tribunal of an additional Trial Chamber and full utilization of the third courtroom. The Registry of the Tribunal has estimated such annual costs as amounting to \$14,150,000. The Secretary-General notes that this unofficial estimate must be reviewed by the Controller and detailed estimates will be made available to the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee.

The establishment of a third Trial Chamber and the election of four additional judges would require the amendment by the Security Council of Articles 11, 12 and 13 of the Statute of the Tribunal. Following such amendment, the General Assembly would be requested to approve the related increase in the budget of the Tribunal. Finally, the Security Council and the General Assembly would have to elect the four additional judges in accordance with the Statute of the Tribunal.

I would appreciate it if you would bring the present letter and its attachments to the attention of members of the Security Council and the General Assembly for their approval of the request for the establishment of an additional Trial Chamber, and the election of four additional judges, for the Tribunal.

(Signed) Kofi A. ANNAN

ANNEX

Letter dated 16 April 1998 from the President of the
International Tribunal for the Former Yugoslavia
addressed to the Secretary-General

I have the honour to refer to my address, on 12 February 1998, to the Security Council, expressing the need of the International Tribunal for the Former Yugoslavia for an additional Trial Chamber of three judges and a fourth judge to be assigned on an as-needed basis to either a Trial Chamber or the Appeals Chamber. While I was at Headquarters, I also spoke with you regarding this matter.

When I addressed the Security Council, a number of its members raised questions relating to the financial aspects of the International Tribunal's proposal for additional judges and requested further details on the impact an additional Trial Chamber would have on the budget of the Tribunal. I have the honour to submit to you that report, which addresses that issue (see appendix).

The report contains a detailed financial statement of the staffing requirements and costs for the Chambers, the Office of the Prosecutor and the Registry, which will be made available to the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee. The request for additional judges that the Security Council is called upon to consider, however, is based on the need to provide accused persons in custody with an expeditious trial and to utilize fully the court facilities that the Tribunal will shortly have in place.

The International Tribunal for the Former Yugoslavia at present has 25 accused persons in its Detention Unit. The Statute of the Tribunal guarantees the accused a fair and expeditious trial. Yet some have been in custody for long periods of time awaiting both the commencement and conclusion of their trials. Based on the number of persons now in custody, there are 12 trials that have to be conducted. Further, there are 47 persons who have been publicly indicted who are not in custody; if they were all transferred, the Tribunal would have a potential for at least 21 trials to be conducted. These numbers do not take into consideration the real possibility of severance based on motions for separate trials, which, of course, would greatly increase the numbers of trials required.

In order for the International Tribunal to carry out its mandate, a number of Member States have offered to help by financing the building of additional court facilities to carry out our trials. One courtroom will be ready for trial activity at the beginning of May 1998 and a second will be complete by late June 1998. Obviously, the three courtrooms will not be fully utilized if the Tribunal has only two Trial Chambers. The addition of one Trial Chamber would allow the Tribunal to conduct trials simultaneously. Without this addition, some accused who have recently been placed in custody may have to wait until the year 2000 for their cases to begin, and certainly for their cases to be concluded.

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Page 4

The Security Council established the International Tribunal to help bring about and maintain international peace and security in the former Yugoslavia. If the Tribunal is to discharge this mandate, as a judicial institution, it must demonstrate that it can and will provide accused persons with both a fair and expeditious trial. Additional judges are needed for this purpose.

The International Criminal Tribunal for Rwanda has also submitted a request for additional judges. You have referred this request to the Security Council for action (A/52/504-S/1997/812 of 21 October 1997). I am respectfully requesting that you officially refer the present letter and the proposal of the International Tribunal for the Former Yugoslavia to the Security Council in the same manner. In this regard I would note that I have also sent a copy of the report to the President of the Council.

There is an urgency to this request. Firstly, as I have indicated, the number of accused persons in custody has increased dramatically in the last few months. Secondly, there is a need to utilize fully the additional courtrooms made possible by donations from Member States. Thirdly, time is needed to carry out the necessary procedures for additional judges to be elected, should this request be favourably considered. Therefore, I would sincerely appreciate any assistance that you would provide to the International Tribunal in assuring that this request and report are considered by the Security Council in a timely manner.

(Signed) Gabrielle Kirk McDONALD
President

APPENDIX

Report by the International Tribunal for the Former Yugoslavia
on the need for and additional Trial Chamber and the full
utilization of its courtrooms

I. INTRODUCTION

1. The present report is submitted in support of the proposal by the International Tribunal for the Former Yugoslavia to establish an additional Trial Chamber, as outlined in President Gabrielle Kirk McDonald's presentation to the Security Council of 12 February 1998. As President McDonald indicated, the activities of the International Tribunal have increased dramatically in recent months.
2. Since October 1997, the number of accused persons in custody has increased almost threefold, up from 10 to 29.^a In mid- to late 1997 a number of Member States recognized the need to provide additional assistance to the Tribunal as a result of the increasing number of accused persons being brought to The Hague. In order for the International Tribunal to carry out its mandate expeditiously, those Member States offered to help by financing the building of additional court facilities to carry out trials.^b Initially, the Government of the United Kingdom of Great Britain and Northern Ireland provided funding for a second courtroom, and that facility will be ready for trial activity at the beginning of May 1998. Later in the year, the Governments of the Netherlands and the United States of America supplemented by a donation from Canada, offered assistance for a joint project to construct a third and expanded court facility, which would accommodate joint trials of up to six accused. That courtroom will be ready for trial activity in late June 1998.
3. The International Tribunal currently has 12 trials to be conducted by its two Trial Chambers.^c Further, there are 47 additional public indictees who are not in custody. Should all those indictees be transferred to the Tribunal, there is a potential for 23 trials to be conducted. These numbers do not take

^a The Prosecutor withdrew indictments against three accused in December and in March 1998 an accused who is paralysed was provisionally released pending trial without objection by the Prosecution. One convicted person is awaiting transfer for incarceration. There are presently 25 accused persons in the Tribunal's Detention Unit.

^b The Tribunal proposed the construction of a new court facility in its budget for 1998. The proposal was approved by the General Assembly but construction would not be completed before early 1999.

^c One trial is presently being conducted by a Trial Chamber of three judges who were permitted by the Security Council in its resolution 1126 (1997) to remain until November 1998 to complete the trial. (Prosecutor v. Zejnir Delalić, Zdravko Mucić, also known as "Pavo", Hazim Delić and Esad Landžo, also known as "Zenga", Case No. IT-96-21-T, T.Ch.II.)

into consideration the real possibility of severance based on motions for separate trials, which, of course would greatly increase the number of proceedings required. Also, the total number of sealed indictments is known only to the Office of the Prosecutor.

4. The Statute of the International Tribunal for the Former Yugoslavia guarantees the accused a fair and expeditious trial. Yet some accused have been in custody for long periods of time awaiting the commencement of their trials - one accused was in custody for almost one year and three months before his trial was commenced. Others have been in custody for two years awaiting the completion of their trial. Because there has been only one courtroom to be shared by the Trial Chambers and the Appeals Chamber, the available time in the single courtroom has been allocated among the four pending trials as well as appeals proceedings. This situation has created severe scheduling problems.

5. The judges have approved amendments to the Rules of Procedure and Evidence to accelerate the trials. However, even with these expedited procedures, a third Trial Chamber is needed for the International Tribunal to best provide expeditious trials to the accused persons in custody and to those who undoubtedly will be transferred in the very near future.

6. The Security Council established the International Tribunal for the Former Yugoslavia to help bring about and maintain international peace and security in the former Yugoslavia. In less than four and a half years, the Tribunal has developed into a functioning international criminal judicial institution, the first of its kind. It has created an international code of criminal procedure and has established precedent interpreting international customary law proscribing serious violations of international humanitarian law. The International Tribunal, which owes its creation to the Security Council, now calls upon that body to enable it to discharge its mandate in accordance with standards of due process. It would be a travesty to see the extensive work put into building this institution stymied by an inadequately staffed Chambers, Office of the Prosecutor and Registry.

7. A number of members of the Security Council have raised questions relating to the financial aspects of the proposal and requested further details on the impact an additional Trial Chamber would have on the budget of the International Tribunal. The cost estimate below indicates that the additional Chamber itself will require an expenditure of less than \$1.2 million per annum. The major portion of the increased financial requirements arises directly from the full utilization of the third courtroom and requirements for the Office of the Prosecutor and the Registry. The costs attendant to those increases amount to approximately \$13 million per annum.

II. FINANCIAL IMPLICATIONS

8. The capacity of the International Tribunal to fulfil its mandate is being significantly enhanced by the addition of the two new courtrooms, but the Tribunal will need resources for additional staff and equipment to carry out the activity. The Tribunal's 1998 resource level was designed to accommodate two

Trial Chambers,^d as well as investigative, prosecutorial and support costs at the level of two operational courtrooms and an average of 18 detainees.* The increase in the number of detainees and the availability of three court facilities will be addressed during the remainder of 1998 by short-term measures. For 1999, there will be a pressing need to utilize the third available court facility to provide expeditious trials for detainees who will have been held in remand for some time. A third Trial Chamber, consisting of three additional judges and a rotating judge, is required.

9. An analysis has been prepared of the direct costs for a third Trial Chamber, consisting of four judges, five Professional legal staff and two secretaries. This amounts to \$1,153,400 for a full calendar year.

10. In addition, preparation for trials, support costs and operational requirements for the courtroom to be used by the new Chamber must be taken into consideration. Approximately 125 additional staff would be required for prosecution and registry tasks. This includes staff and expenses for the Prosecutor's Office to complete investigations and to prepare and carry out the prosecution of cases and Registry requirements for court management, translation and interpretation, supplies, witness and defence costs, furniture and equipment and administrative support personnel. The cost for these items is \$12,996,600 for the full calendar year.

11. The addition of a third Trial Chamber and the related support would significantly speed up the completion of the Tribunal's mandate. A summary description of the costs involved and additional staff required is provided in the table below.

Estimated annual cost to the International Tribunal for the
Former Yugoslavia of an additional Trial Chamber and full
utilization of a third courtroom

(Thousands of United States dollars)

Type of expenditure	Total
<u>Chambers</u>	
Judges' salary and common staff costs	812.0
Salary costs, secretarial support	68.9
Salary costs, legal support	<u>272.5</u>
Total, Chambers	<u>1 153.4</u>

^d A third Trial Chamber was retained temporarily to complete the Celebici trial, which had begun prior to the election and appointment of new judges in November 1997.

* The 1998 budget assumed 12 detainees from January to June, increasing to 24 detainees in the second half of the year.

Type of expenditure	Total
<u>Office of the Prosecutor</u>	
Personnel costs	3 253.8
Consultants and experts	80.1
Travel of personnel	<u>351.3</u>
Total, Office of the Prosecutor	<u>3 685.2</u>
<u>Registry</u>	
<u>Registry costs</u>	
Personnel costs	3 609.2
Interpretation and translation	1 262.2
Travel of personnel	<u>60.0</u>
Total, Registry	<u>4 931.4</u>
<u>Court-related costs</u>	
Witness costs	545.7
Defence counsel	<u>2 400.0</u>
Total, court-related costs	<u>2 945.7</u>
<u>Administrative support costs</u>	
Communications	226.9
Miscellaneous services	65.1
Supplies	282.2
Acquisition of equipment	<u>860.1</u>
Total, administrative support costs	<u>1 434.3</u>
Grand total	<u>14 150.0</u>



General Assembly

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Fifty-second session

Agenda item 142

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Support account for peacekeeping operations

Report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the reports of the Secretary-General on the financial performance of the support account for peacekeeping operations during the period from 1 July 1996 to 30 June 1997 (A/52/838) and the estimated requirements for the support account for the period from 1 July 1998 to 30 June 1999 (A/52/837).

Financial performance for the period from 1 July 1996 to 30 June 1997

2. As indicated in paragraphs 9 and 11 of the performance report (A/52/838), the General Assembly, by its resolution 50/221 B, approved support account resources amounting to \$30,534,400 for post and non-post requirements for the period from 1 July 1996 to 30 June 1997; the total staffing establishment for the period was 346 posts. Expenditures for the period amounted to \$28,066,000, resulting in an unutilized balance of \$2,468,400, which is attributable to a higher than anticipated vacancy rate and, as was made clear during the deliberations, to variances between the actual composition of support account posts and the average used in standard salary costs for the purpose of cost estimation. Annexes I and II to the performance report provide a breakdown of the approved appropriation and the related

expenditures by office/department and by budget line, as well as supplementary information on variances in expenditures. In view of the variances in the composition of support account posts from the norms used to calculate standard costs for the regular budget, the Advisory Committee recommends that in future the vacancy factor for support account posts be increased from 5 per cent to 8 per cent to offset the effects of the variance referred to above.

3. Annex III to the report provides information on authorized posts and the vacancy situation by office/department; the Advisory Committee recalls that, by its resolution 51/239 A, the General Assembly requested the Secretary-General to submit information on redeployments, if any, between units, covering the period from 1 July 1996 to 30 June 1997 and the period from 1 July to 31 December 1997. The Committee notes from paragraph 14 of annex II to the report that there was a redeployment of two posts from the Procurement Division to the Accounts Division: the Committee was informed, upon enquiry, that this was the only redeployment during the period from 1 July 1996 to 30 June 1997. With regard to the period from 1 July to 31 December 1997, the Committee was informed that two posts within the Department of Peacekeeping Operations were redeployed from the Mission Planning Service to the Lessons Learned Unit.



4. In the view of the Committee, the performance report is too focused on providing statistical information rather than information on management issues relating to the administration of the support account. The performance report should have been more analytical and should have explained important administrative issues which had impacted on the implementation of the approved budget under the support account.

5. In paragraph 13 of the performance report, the Secretary-General proposes that the General Assembly apply the unencumbered balance of \$2,468,400 for the period from 1 July 1996 to 30 June 1997 to the support account requirements for the period from 1 July 1998 to 30 June 1999. The Advisory Committee has no objection to this proposal.

Support account requirements for the period from 1 July 1998 to 30 June 1999

6. The report of the Secretary-General on requirements (A/52/837), which was prepared pursuant to General Assembly resolution 51/239 A, contains proposals for support account requirements of \$39.4 million for the period from 1 July 1998 to 30 June 1999. For the period ending 30 June 1998 the General Assembly appropriated \$32.4 million for the support account.

7. Paragraphs 21 to 32 of the Secretary-General's report deal with the in-depth evaluation and comprehensive review of the total human resources requirements for Headquarters backstopping of peacekeeping operations called for by the General Assembly in paragraphs 6 to 8 of its resolution 51/239 A. According to the Secretary-General, an evaluation of the Department of Peacekeeping Operations, including its Situation Centre, has been carried out; the report contains the following conclusions resulting from the evaluation: "it became evident that the number of regular budget posts (55) together with the number of currently authorized support account posts (224) would not be adequate to support the anticipated workload" (para. 22); the current structure of the Department of Peacekeeping Operations is "generally sound" (para. 23); there is "a need to tighten the links between the Office of Operations and the Situation Centre" (para. 24); and "the division of labour between the two departments (Department of Political Affairs and Department of Peacekeeping Operations) is clear" (para. 25).

8. The report of the Secretary-General should have been more focused and analytical. The report should also have provided a summary of the findings which led to the

assertions cited above, assertions which have not been supported with sufficiently convincing analysis. Further complicating the situation was the fact that the advance copy of the report upon which the Advisory Committee had to work, and which was submitted to it on only 20 March 1998 (the Committee's session ended on 27 March) contained numerous errors. On 6 May the Committee received an extensive list of corrections to the tables, which is annexed to the present report. The report also contains some statistics which may be misleading. For example, figure 1 of the report shows that there will be 20,500 troops, 6,300 military observers and 5,100 international and local staff as at July 1998. These figures, however, reflect the authorized level of troops, military observers and staff as at 1 July 1997 and do not take into account the fact that since then the size of a number of peacekeeping operations has been reduced. For example, the number of troops authorized for the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium will decrease from 4,291 as at 1 July 1997 to zero as at 1 July 1998 and the number of troops authorized for the United Nations Observer Mission in Angola will decrease from 6,686 as at 1 July 1997 to 955 as at 1 July 1998.

9. Furthermore, the Advisory Committee points out that the Secretary-General's report fails to analyse the impact of a trend whereby, *inter alia*, with advances in technological innovation and in communications, more and more of what has been performed at Headquarters on behalf of peacekeeping operations can or should be handled by the missions themselves. This is an important factor in analysing the adequacy of Headquarters requirements. When, for example, a mission has a sufficient number of qualified administrative staff, reliable means of communication, well established logistics support on the basis of self-sustainment and the bulk of procurement is done by the mission, corresponding services at Headquarters should require fewer resources. The Committee intends to revert to this issue in September (see para. 14 below).

10. According to the Secretary-General, "there is no direct linkage between the total dollar level of all active peacekeeping operations and the backstopping workload performed at Headquarters" and "smaller missions require no less support than larger missions and can be more complex to administer" (A/52/837, para.32). The Advisory Committee is of the opinion that such conclusions reflect an overly simplistic approach by the Secretariat to the question of backstopping. The report should have contained a functional analysis of the backstopping requirements of peacekeeping operations as they relate to the implementation of their mandates (military, civilian police, human rights

monitoring, humanitarian, electoral assistance). The Committee points out that the backstopping requirements of a mission with mainly civilian police responsibilities would be different from those of a military observer mission, although the number of personnel in both missions could be the same. Moreover, the backstopping requirements of peacekeeping operations are different throughout their lifespan and the report should have contained an analysis of workload related to different stages of peacekeeping operations: planning, implementation, phasing out of operation and liquidation activities.

11. In the course of its deliberations, the Advisory Committee was informed by the representatives of the Secretary-General that the Secretariat is occasionally entrusted with preparations for peacekeeping operations and missions which never materialize. The Committee points out that the Secretary-General's report should have clearly indicated the workload related to such contingency planning and planning for missions that had never materialized.

12. The proposed staffing of 469 temporary posts, compared with the current staffing table of 346 posts, appears to reflect the establishment of 20 new posts, the deletion of 3 posts and the conversion of 106 positions, previously occupied by gratis personnel officers, into temporary posts.

13. The Advisory Committee, however, was unable to complete its consideration of the Secretary-General's request for new and converted posts, owing to the pervasive unavailability of reliable statistics and explanatory information. Despite the effort made by the Secretariat, there were numerous inconsistencies in the report itself between data in the summary tables and data in the specific tables, including misleading narratives. As noted above there were also many errors and subsequent corrections and/or revisions. The final printed version of the Secretary-General's report was not available in time for the Committee to take it into account prior to finalizing its own recommendations to the General Assembly. Moreover, at the time when the Committee had to finalize its recommendations there were numerous outstanding requests for additional information, clarification or analysis.

14. Taking into account what has been stated in the paragraphs above, the Advisory Committee intends to resume consideration of the requirements for the support account for 1998-1999 in September 1998 after receipt of reliable data and analysis. On this basis, the General Assembly should be able to complete action on the support account before the end of October 1998. In the meantime, arrangements have to be considered which will allow

necessary work to be carried out without impeding the mandated phase-out of gratis personnel, taking into account the required lead time for the recruitment of staff against new temporary posts. Under the circumstances, the Committee, at this stage, recommends four new posts for assets management. In addition, the Committee recommends the conversion at this stage of 34 gratis positions to temporary posts, priority to be given to functions related to military expertise and civilian police. Taken together with the 30 vacancies which now exist, the Secretariat will have 68 positions available to fill through October 1998. It should also be borne in mind that there is considerable flexibility to redeploy the 346 posts already available in the current establishment. The gratis positions to be converted at this stage would be unspecified and this interim action would be without prejudice to the post-by-post recommendations which the Committee will make in September 1998 both for conversions and for the new posts which remain to be considered.

15. The Advisory Committee further recommends that the amount to be pro-rated to the various peacekeeping operations for their contribution to the support account be based upon the 1997-1998 level for the support account (\$32.4 million), with an additional \$2 million for the posts recommended by the Committee in paragraph 14 above. The total would thus be \$34.4 million. Additional requirements (up to the Secretary-General's request of \$39.4 million for 1998-1999) would be reflected in the relevant performance reports of each peacekeeping operation after the General Assembly has completed its decision on the appropriation for the support account for 1998-1999 in October 1998.

Annex

Corrections to tables in the report of the Secretary-General (A/52/837)

<i>Table</i>	<i>Description</i>	<i>Corrections</i>
Annex I		
3	Office of the Under-Secretary-General	One P-2 post (regular budget) under 1997-1998 should be deleted. Total regular budget posts should be two (1 Under-Secretary-General and 1 General Service (other level)).
5	Policy and Analysis Unit	One P-2 post (regular budget) under 1997-1998 should be added. The P-4 support account post under 1997-1998 should be P-5.
15	Office of the Assistant Secretary-General	One P-5, one P-4 and one General Service (other level) support account posts have not been included under 1997-1998. The number of gratis military officers should be four P-4 and two P-3. These changes are due to the inclusion of the Mine Action Service in the Office.
25	Office of the Director, Field Administration and Logistics Division	One P-3 post (regular budget) under 1997-1998 should be deleted. The total number of regular budget posts should be four.
26	Finance Management and Support Services	One P-3 post (regular budget) under 1997-1998 should be deleted. The following should be inserted in paragraph 93: One P-4 post and one P-3 post are requested for the Office of the Chief of the Service. Conversion of two gratis military officer posts (1 P-4 and 1 P-3).
31	Financial Support Section	One P-3 post (regular budget) under 1997-1998 should be deleted.
33	Asia and Middle East Unit	One P-3 post (regular budget) under 1997-1998 should be deleted. There should not be any regular budget posts for this period.
40	Supply Section	Includes the Medical Support Unit; table 41 (Medical Support Unit) should be deleted.
45	Staffing Support Section	One P-5 gratis military officer post should be deleted. The total number of gratis military officers under 1997-1998 should be one.
Annex II		
2	Overall staffing of units involved in backstopping peacekeeping operations	The total number of temporary posts (other) should be 132 for 1997-1998 and 133 for 1998-1999.



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Agenda item 61
QUESTION OF CYPRUS

SECURITY COUNCIL
Fifty-third year

Letter dated 7 May 1998 from the Chargé d'affaires a.i. of
the Permanent Mission of Turkey to the United Nations
addressed to the Secretary-General

I have the honour to transmit herewith a letter, dated 6 May 1998,
addressed to you by His Excellency Mr. Aytuğ Plümer, Representative of the
Turkish Republic of Northern Cyprus.

I should be grateful if the text of the present letter and its annex could
be circulated as a document of the General Assembly, under agenda item 61, and
of the Security Council.

(Signed) Tuluy TANÇ
Ambassador
Chargé d'affaires a.i.



ANNEX

Letter dated 6 May 1998 from Mr. Aytuğ Plümer
addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letters dated 21, 27, 30 April and 4 May 1998 addressed to you by the Greek Cypriot representative at the United Nations, which contain allegations regarding "violations of the airspace of the Republic" (A/52/875-S/1998/340, A/52/877-S/1998/348, A/52/880-S/1998/360 and A/52/885-S/1998/370, respectively).

I would like to recall that similar charges on so-called "airspace violations" were rejected in toto in our previous communications addressed to you, most recently in my letter dated 14 April 1998 (A/52/873-S/1998/328). Since the present Greek Cypriot charges are of the same nature, they do not merit a detailed reply. I wish to reiterate, however, that flights within the sovereign airspace of the Turkish Republic of Northern Cyprus take place with the full knowledge and consent of the appropriate authorities of the State over which the usurper Greek Cypriot regime in the South has no jurisdiction or any right of say whatsoever.

This barrage of unfounded allegations by the Greek Cypriot side is aimed at providing a smokescreen for its policy of escalation and tension on the island. It is noteworthy, in this context, that the Greek Army Chief of Staff, Athanios Tzoganis, concluded a three-day visit to South Cyprus on 24 April 1998, during which he assured the Greek Cypriots that the so-called "joint military doctrine" will be expanded and stated that his departure from South Cyprus by way of flying out of the newly constructed "Andreas Papandreu" military airbase at Paphos symbolized Greece's commitment to the Greek Cypriot armed forces (Greek Cypriot press of 23 and 25 April 1998).

In a recent ceremony held in South Cyprus, Greek Cypriot leader, Mr. Glafcos Clerides, stated that the so-called "joint military doctrine" had added a new dimension to the Cyprus issue and praised the outgoing Commander of the Greek Cypriot National Guard, General Vorvolakos, for his efforts in materializing the "doctrine". For his part, Vorvolakos expressed his belief that "the way towards a political settlement and membership in the European Union passes through the barrel of guns and cannons, and through rocket-launchers", Vorvolakos further stated that, in the context of the "joint military doctrine", he was prepared to take up position in battle at the side of Mr. Clerides, whenever necessary (Greek Cypriot press of 29 April and 1 May 1998).

As a further provocation, the Greek Cypriot administration, which has destroyed all the parameters for a settlement in Cyprus through its unilateral application for membership in the European Union, in contravention of the 1960 Agreements, and which has raised the tension on the island to an all-time high through its decision to purchase the sophisticated S-300 missile system from Russia, has now also submitted an application for membership to the Western European Union. In doing so, with the active support of Greece, the Greek Cypriot side has taken yet another step in undermining the internal and external

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balances established between the two peoples, on the one hand, and their respective motherlands Turkey and Greece, on the other, by the 1960 international Cyprus treaties.

This dangerous policy of escalation and tension being pursued by the Greek-Greek Cypriot camp, coupled with the destruction of the existing parameters for a settlement, poses a clear threat to peace and stability on the island, and the region at large. It is evident that the Greek Cypriot side has opted for confrontation rather than accommodation. All parties interested in a peaceful settlement of the Cyprus dispute must therefore press the Greek Cypriot administration to abandon this dangerous posture and seek a settlement based on the existing realities on the island.

I should be grateful if the text of the present letter could be circulated as a document of the General Assembly, under agenda item 61, and of the Security Council.

(Signed) Aytuğ PLÜMER
Representative
Turkish Republic of Northern Cyprus

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Agenda item 157

United Nations reform: measures and proposals

Utilization of the Development Account**Report of the Advisory Committee on Administrative and Budgetary Questions**

1. The Advisory Committee on Administrative and Budgetary Questions has considered the note by the Secretary-General on the utilization of the Development Account (A/52/848). The note was prepared in response to the request by the General Assembly in paragraph 24 of its resolution 52/12 B of 19 December 1997 that the Secretary-General submit a detailed report by the end of March 1998 identifying the sustainability of the initiative, as well as the modalities of implementation, the specific purposes and associated performance criteria for the use of such resources. During its consideration of the report, the Advisory Committee met with the representative of the Secretary-General.

2. The Advisory Committee points out that a detailed report on the subject has not been prepared; the note of the Secretary-General does not respond fully to the requirements of resolution 52/12 B. Most importantly, sections III and IV of the note, which deal with programme objectives and direction and principles governing utilization/performance criteria, are mere outlines, which present in general the same information available in the report of the Secretary-General of 31 October 1997 entitled "Creating a dividend for development" (A/51/950/Add.5).

3. The sustainability of the initiative is described in paragraph 4 of the Secretary-General's note. The underlying assumption for the creation of the Development Account is that any savings in resources arising from productivity gains would be reallocated to the Development Account. In its

report of 27 February 1998 on non-programme costs (A/52/7/Add.10), the Advisory Committee has indicated that it is important to bear in mind that, consistent with paragraph 24 of resolution 52/12 B, the transfer of resources associated with productivity gains into the Development Account is not a budget reduction exercise but one of redeployment and that the total budgetary amount and related assessments would remain the same both before and after the redeployment. The Committee also recommended that proposals related to efficiency measures form a distinct part of the performance report and be treated separately from information on changes related to currency fluctuation and inflation. In that connection, it will be essential for the performance report to identify clearly savings resulting from efficiency measures so as to enable the General Assembly to take the necessary decision to redeploy those savings to the Development Account. The Committee has also pointed out in its report of 27 February 1998 (A/52/7/Add.10) that savings from currency fluctuations and the effects of inflation would not be available for transfer to the Development Account, nor would losses result in a reduction of amounts otherwise available through efficiency savings.

4. The Advisory Committee notes that in paragraph 4 of the Secretary-General's note it is indicated that the transfer of resources associated with productivity gains to the Development Account would reflect a "redemption of productivity gains in the administrative areas to the Development Account". The Committee sought clarification



as to what "administrative areas" meant in that context. The Committee was informed that consistent with its recommendation in its report of 27 February 1998 (*ibid.*), the streamlining and simplification of processes and procedures were now expected to take place not only in central service departments (e.g., the Department of Management), where a large proportion of administrative costs were incurred, but across the entire Organization. The Committee points out that real productivity gains should not be the result of a cost avoidance or postponement exercise. On previous occasions, the Committee has indicated that a true saving from the introduction of efficiency measures is achieved if costs are reduced while the level and quality of services is maintained or further improved.¹

5. The Advisory Committee has also indicated previously that efforts to simplify and streamline systems and procedures should continue to be pursued, as these will have a positive impact on the efficiency of all the activities of the Secretariat. They may also lead to economies in all sections of the programme budget, in particular if the efficiency measures are accompanied by enhancements to the Organization's computer-based information systems, as well as frequent and intensive staff training. Moreover, the Committee has indicated that all programme managers should be given the responsibility to increase efficiency in their respective area and such initiatives should cover not only departments and offices at Headquarters, but also regional commissions and field offices (see A/52/7/Add.10, paras. 14 and 20).

6. In paragraph 4 of the Secretary-General's note, it is indicated that "each proposed programme budget will include ... the amount approved for the Development Account in the previous programme budget, supplemented by any additional productivity gains achieved during the prior biennium together with any further prospective productivity gains anticipated in the forthcoming biennium". This is contrary to the intention already stated in the same paragraph that "once a productivity gain has been identified and achieved, approval by the General Assembly will be sought for the transfer of the associated resources into that Account". In that connection, the Advisory Committee recalls that it has stressed that in order to avoid the confusion that has characterized previous exercises (some of which are described in the first report of the Advisory Committee on the proposed programme budget for the biennium 1998-1999²), the actual results of efficiency initiatives should be indicated to the satisfaction of the Assembly before the related savings could be approved for redeployment.

7. The Advisory Committee notes that the Secretary-General still maintains as a target the transfer over time of

\$200 million from other sections of the budget to the Development Account (A/52/848, para. 4). Upon enquiry, the Committee was informed that the intention of the Secretary-General was to reach that amount by the end of the biennium 2002-2003. The Committee recalls that it commented on the matter in paragraphs 8 and 9 of its report of 5 December 1997 (A/52/7/Add.2). It suffices to stress again that the target appears to be overambitious. It has not yet been demonstrated that administrative expenditures constitute 38 per cent of the programme budget, nor has it been shown that a one-third reduction in administrative expenditure will yield cumulative savings of some \$200 million by the biennium 2002-2003 as indicated by the Secretary-General in his previous report on the subject (A/52/758). Moreover, the current financial situation of the Organization also presents a serious problem for this exercise, especially when the Secretariat is being called upon increasingly to absorb the costs of new mandates that arise during the course of the biennium.

8. As for modalities of implementation, it is indicated in paragraph 7 of the Secretary-General's note that the Development Account is part of the regular budget of the United Nations and the same modalities and procedures that govern the regular budget will govern the Development Account. The Secretary-General proposes that funds appropriated for the account be treated as a multi-year project. The Advisory Committee recommends that any balance of appropriation be transferred to a special account at the end of the biennium, so that the funds will be available in succeeding bienniums. The Committee notes that, as indicated in paragraph 12 of the report of the Secretary-General of 31 October 1997 (A/51/950/Add.5), projects would be finite, capable of completion within two bienniums.

9. The Committee notes from paragraph 7 that:

"The Secretary-General will present his proposals for the utilization for the funds in the Development Account for each biennium along with the budget proposals for that biennium. Specific projects would be implemented within the framework of the General Assembly's decision on those proposals."

This is consistent with the observation of the Committee in its report of 27 February 1998 (A/52/7/Add.10) that the Secretariat would have to proceed on the basis of specific proposed initiatives about which Member States would be informed in advance.

10. The Advisory Committee recalls that, for the biennium 1998-1999, the General Assembly in its resolution 52/220 of 22 December 1997 appropriated an amount of

\$13,065,000 for the Development Account under section 34 of the programme budget. The Committee points out that it has not received the report indicated in paragraph 7 of the Secretary-General's note on the proposals for utilization of that amount.

Notes

¹ *Official Records of the General Assembly, Fifty-second Session, Supplement No. 7 (A/52/7), para. 19.*

² *Ibid.*, paras. 13-21.